



**CITY COUNCIL**  
**December 6, 2021**

**WORK SESSION: 7:00 PM**

1. Call to Order and roll call.
2. Discussion of all items on the agenda.
3. Work Session discussion items:
  - A. Receive an update and presentation from Dr. Warren, the Northwest ISD Superintendent.
  - B. Discuss with staff and provide feedback on the City Secretary position profile.
  - C. Discuss with staff the 2021 Streets Improvement Project.
4. Adjournment.

**REGULAR SESSION: 7:00 PM or immediately following the Work Session.**

5. Call to Order and roll call.
6. Pledge to the flags.
  - A. United States of America
  - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
7. **OPEN FORUM:** The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens the opportunity to speak, there is a three-minute limitation on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.

- 8. NEW BUSINESS:** All matters listed as New Business will be discussed and considered separately.
- A.** An ordinance of the City of New Fairview, Texas, adopting and enacting a new code of ordinances; providing for the repeal of certain ordinances not included therein; providing a penalty for the violation thereof not exceeding \$500 generally or not exceeding \$2,000 for violations relating to fire safety, zoning or public health and sanitation or not exceeding \$4,000 for violations relating to dumping of refuse; providing for the amendment of such code; and providing when such code and this ordinance shall become effective.
  - B.** An ordinance of the City of New Fairview, Texas, providing for a change in the municipal contributions to the current service annuity reserve at retirement of the employees of the City of New Fairview, Texas.
  - C.** Discuss, consider, and act on a resolution of the City of New Fairview, Texas, amending the Council adopted fee schedule to include commercial safety inspection fees, establish the inspection schedules and criteria, and authorize the City Administrator to enter into agreements with East Wise Fire Rescue and Modern Geosciences to provide the commercial safety inspection services.
  - D.** Discuss, consider, and act on a resolution of the City Council of the City of New Fairview, Texas, regarding a financing agreement for the purpose of procuring a hot box, crack seal unit, seal coat unit, a trailer, vehicles, and safety inspection equipment.
  - E.** Discuss, consider, and act on the executive session items.
- 9. EXECUTIVE SESSION:** The Commission will conduct a closed session pursuant to Texas Government Code, annotated, Chapter 551, Subchapter D for the following:
- A.** Section 551.071 (Consultations with Attorney) of the Texas Government Code to discuss (i) potential litigation related to the removal of Monica Rodriguez and legal issues related thereto.
  - B.** Section 551.071 (Consultations with Attorney) of the Texas Government Code to discuss (i) the Texas Public Information Act (“TPIA”) as it applies to the Council members, board and/or commission members, and City staff and legal issues related to the TPIA; and (ii) the Texas Open Meetings Act (“TOMA”) as it applies to the Council members and board and/or commission members and legal issues related to the TOMA; and (iii) the City of New Fairview City Council Procedures and Decorum Policy as it applies to the Council members and board and/or commission members and legal issues related to this policy.

- C. Section 551.074 - Personnel Matters; (a) This chapter does not require a governmental body to conduct an open meeting: (1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or (2) to hear a complaint or charge against an officer or employee; (b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing: City Attorney
  - D. Section 551.074 - Personnel Matters; (a) This chapter does not require a governmental body to conduct an open meeting: (1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or (2) to hear a complaint or charge against an officer or employee; (b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing: Place 1
  - E. Section 551.074 - Personnel Matters; (a) This chapter does not require a governmental body to conduct an open meeting: (1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or (2) to hear a complaint or charge against an officer or employee; (b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing: Place 3
10. **ADJOURN:** I, the undersigned authority, do hereby certify the above notice of the meeting of the City Council of New Fairview, is a true and correct copy of the said notice that I posted on the official posting place at New Fairview City Hall, FM 407, New Fairview, Texas, a place of convenience and readily accessible to the general public at all times, and said notice posted this 3rd day of December, 2021 at 7:00 PM at least 72 hours proceeding the meeting time.

---

**Brooke Boller, Interim Deputy City Secretary**

**SEAL:**

This facility is wheelchair accessible; parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the Interim Deputy City Secretary at city hall 817-638-5366 or fax 817-638-5369 or by email at [citysecretary@newfairview.org](mailto:citysecretary@newfairview.org) for further information.



**City Council Agenda  
December 6, 2021**

**Agenda Item:**

**(Work Session)**

**Agenda Description:**

Receive an update and presentation from Dr. Warren, the Northwest ISD Superintendent.

**Background Information:**

Dr. Warren has recently announced his retirement and requested an opportunity to update the Council on what is happening in NISD.

**Financial Information:**

N/A

**City Contact and Recommendation:**

Ben Nibarger, City Administrator

**Attachments:**

Presentation delivered under separate cover





**City Council Agenda  
December 6, 2021**

**Agenda Item:**

**(Work Session)**

**Agenda Description:**

Discuss with staff and provide feedback on the City Secretary position profile.

**Background Information:**

The Council directed staff to recruit for the City Secretary position without using the services of SGR and provided budget authorization to spend up to \$2,000 for the recruitment. Following the meeting, staff communicated with the Council that a position profile would be created and presented to the Council for their approval, prior to beginning the search.

Further, staff has identified several locations to place the position profile, including the Texas Municipal League (TML) website, Texas Municipal Clerks Association (TMCA) website, and established an account with Indeed for advertising the position. Due to the holidays and to ensure the best quality candidates for review, the estimated timeline will be as follows:

**Job Posting:** December 7, 2021

**Early Review of Applications:** January 10, 2022

**Final Acceptance of Applications:** January 24, 2022

**Applicant Questionnaires & Social Media Research:** February 14, 2022

**Semi-finalist Selection:** February 28, 2022

**Finalist Selection (Background Check, DISC Assessment, etc.):** March 7, 2022

**Finalist Reports:** March 21, 2022

**Council Interview:** March 28, 2022

---

Previously the Council directed staff to obtain a proposal from SGR to conduct an executive search for a City Secretary as well as a proposal for interim City Secretary services. The proposals included a \$70 per hour interim City Secretary rate of pay as well as approximately 15 weeks and \$24,900 for the executive search.

Further, SGR provided the rate of pay for the last five positions SGR filled, stating that they had a median rate of \$64.50 and maximum rate of \$69.00 per hour respectively. Further, within the last week, they had “received six requests for this position [City Secretary].”

**Financial Information:**

Council approved expenditures of upto \$2,000

**City Contact and Recommendation:**

Ben Nibarger, City Administrator

Discuss and provide direction for the staff.

**Attachments:**

City Secretary Position Profile



**New Fairview, TX**  
Keeping it country

---

**CITY SECRETARY**  
**CITY OF NEW FAIRVIEW, TEXAS**

---



LEARN MORE AT  
[WWW.NEWFAIRVIEW.ORG](http://WWW.NEWFAIRVIEW.ORG)



# Our Community

Located just 15 minutes north of the Alliance Corridor, amongst rolling hills and open plains, the City of New Fairview residents enjoy all the benefits of living in a semi-rural atmosphere, with the amenities of a short 30-minute drive to downtown Fort Worth. The Dallas-Fort Worth Metroplex is one of the fastest growing areas in the state, consisting of 12 counties, more than 200 cities, and over 7.5 million people. New Fairview is experiencing the early stages of tremendous growth due to the strong and growing Texas economy, which is gaining 1,100 new residents each day over the last decade. The combination of an ideal location, strong Texas economy, and the staggering population growth, has resulted in New Fairview seeing an almost 2000% increase in housing permits over the last 18 months.

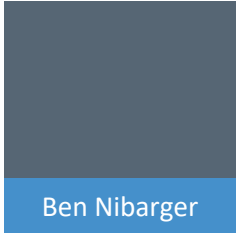
By area, New Fairview is the largest city in Wise County, consisting of approximately 20 square miles, bounded by State Highway 287 to the west, the Wise and Denton County line to the east, and State Highway 114 approximately four miles to the south. New Fairview was originally settled by immigrants from the Illinois Valley, who creatively named the area, the “Illinois settlement”. The settlement's name was later changed to Fairview, due to the scenic vistas of the rolling hills and the surrounding prairies, only to be changed once again, in 1999, to New Fairview, when the city alderman discovered they were sharing their name with 14 other cities in Texas. The many large tracts of land remaining in the city have predominantly been held by families for generations, who have a strong ranching and dairy farm history, as well as having over 400 active Barnett Shale gas wells.

The City of New Fairview is served by the Northwest and Decatur ISD, which is a primary driver of the new housing development being seen between State Highway 287 and I-35. Northwest ISD expects to see 10,000 new homes north of State Highway 114 in the next ten years.

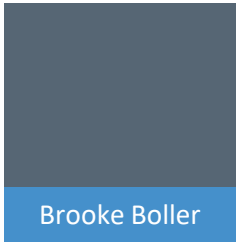


# Our Team

While our team may be small, we are doing great things in New Fairview and look forward to adding the talents and abilities of our successful candidate to do even more.



Ben Nibarger



Brooke Boller



Josh Barnwell



# Our Vision

New Fairview is a safe, welcoming community focused on economic vitality with open natural elements where the stars shine brightly.

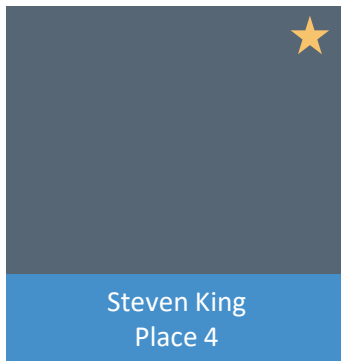
In 2021, the City Council, P&Z Commission, and staff spent significant time completing the Texas Rural Leadership Program, facilitated by the Texas A&M AgriLife Extension Service. This program and the 2021 citizen satisfaction survey provided a strong foundation of information that the community leaders used to develop New Fairview's first community driven vision, mission, and strategic plan. Further, the staff is working on a service-learning project with the University of North Texas (UNT) to develop a comprehensive plan for New Fairview.

# Our Mission

The City of New Fairview is actively engaged in building and developing our team to advance our rural community values into the future by providing incentives and quality services that motivate stakeholders to create built environments that organically blend open natural elements into intentional, focused areas of development that attract both families and businesses that desire to live, work, and play in a community that's going to keep it country.

# Our Organization & Governance

The City of New Fairview is a Type A General Law City, consisting of five voting members and the Mayor. All members are elected at large and serve a two-year staggered term. The City Council appoints the City Administrator, who is generally supervised by the Mayor, and acts as the Chief Executive Officer of the municipality, overseeing the development and implementation of the annual operating budget, execution of all Council adopted ordinances and policies, municipal operations, communication and coordination with the Council, various boards, commissions, county, state, and federal agencies, and City staff.



## Challenges


Currently, the city offers limited services with a City Council focus on “keeping taxes low”. As new residents move into the city, the community has become somewhat divided on what services should be offered by the city, as well as what the quality of those services should look like, resulting in fiery community debate and eleven Council members being seated over the last 18 months. (\* *Appointed*)

## Opportunities

There is a strong desire to maintain the city’s rural look and feel. Staff has been tasked to work with developers and stakeholders to ensure that development is intentional, and that the final product adds long-term value to the community, encouraging like-minded individuals to come live, work, and play in our city. This is the focus of UNT’s service-learning project.

# The Position

The City Secretary role is a statutory position, appointed by the City Council, and supervised by the City Administrator. This position provides complex administrative support to the Mayor, City Council, and City Administrator. This is primarily accomplished by taking ownership and having pride of authorship in your work product, as well as appropriately exercising statutory and delegated powers.



**The city is funded by a \$0.30 per \$100 valuation property tax, sales tax, and miscellaneous permit fees.**

The primary duties and responsibilities of this position can be summarized as the front-line manager of city hall, financial accounting, city elections, public information requests and notifications, as well as assisting the Council, boards, and commissions with their legislative duties, including: facilitating and tracking their training, the preparation and management of all municipal meeting agendas, packets, resolutions, ordinances, support materials, contracts, agreements, and maintenance of all municipal records that are required to be retained by federal, state, or local laws.

The secondary duties and responsibilities are team initiatives focused on delivering excellent customer service, anticipating community and team member needs; working collaboratively to develop effective and efficient solutions that resolve difficult issues, educate those involved, and set realistic future expectations; conduct research, create reports, presentations, brochures, and other content, that will be used in all forms and mediums, to communicate with our varied stakeholders.



# Our Ideal Candidate

New Fairview is seeking a detail-oriented, experienced, and tech-savvy individual.

The successful candidate will be focused on excellent customer service, be goal-oriented, approachable, and maintain effective working relationships with their team members, governing officials, and the general public. The ideal candidate will have exceptional analytical and organizational skills with the ability to manage multiple projects simultaneously.

The ideal candidate will be able to work well in a high-pressure and sometimes stressful situations, be proactive in anticipating issues, and responding in a professional manner.

Competitive candidates must be able to communicate effectively, both verbally and in writing, with the ability to proofread their work for accuracy and content. The candidate should have in-depth knowledge of state, federal, and local laws, including elections, records management, and open records laws and resources. This knowledge is most likely obtained serving in roles such as an Assistant/Deputy City Secretary and/or City Secretary. Advanced knowledge with Microsoft, Google, and financial accounting software is required.

**New Fairview  
has approximately  
1,800 residents with  
a median household  
income of \$72,500  
and median age of  
34.7 years**



## Our Growth & Development

In the last 24 months, New Fairview has platted approximately 8,000 lots, and is continuing to see significant developer interest in our city. New Fairview recently issued \$3 million in bonds, a first for the city, obtaining an A+ rating from S&P, and recently started a major streets Improvement project. The city is also building its first park, through a collaborative partnership with the city, a \$150,000 Texas Department of Parks and Wildlife grant, and area developers' contributions to the community.



# Education & Experience

Candidates should have a bachelor's degree from an accredited post-secondary institution and three-to-five-years of experience in local government administration, preferably working as the City Secretary or Assistant/Deputy City Secretary, with at least two years of supervisory experience. An equivalent combination of education and experience will also be considered. The selected candidate must have completed the Texas Municipal Clerk Certification Program or be able to do so within three years of hire.

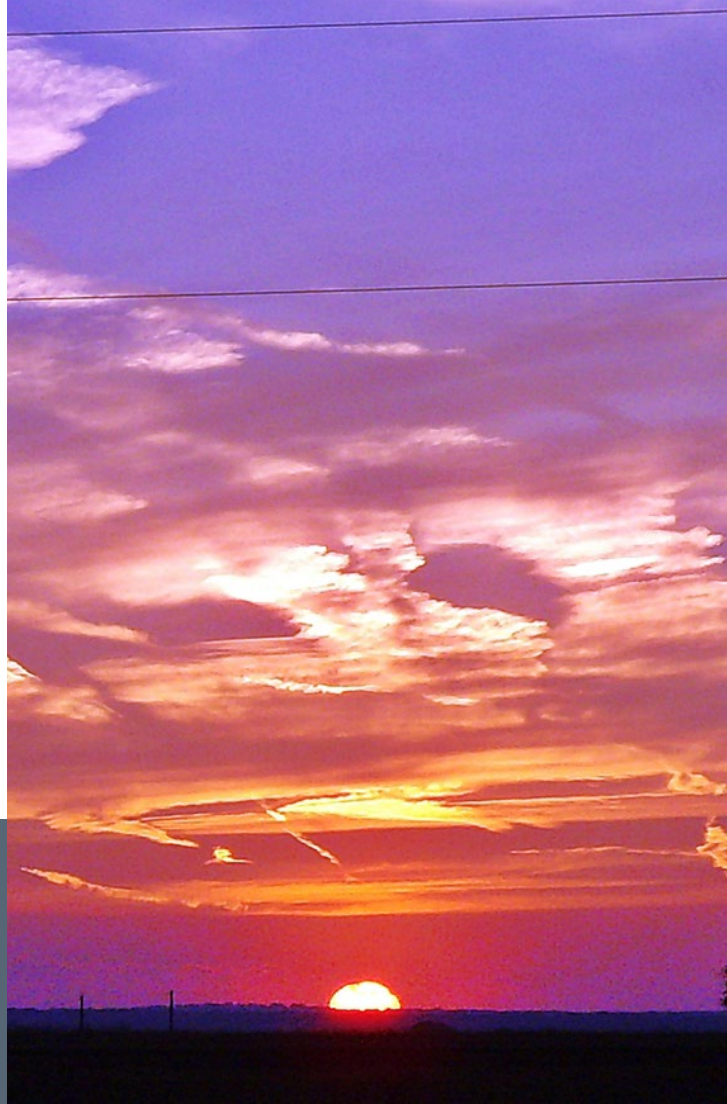
# Application Process

Please apply online at:  
URL Link

Early review of applications will begin on January 10, 2022, with final applications being accepted through February 4, 2022.

For more information:  
Ben Nibarger, City Administrator  
[ben@newfairview.org](mailto:ben@newfairview.org)  
817-638-5366

The City of New Fairview is an Equal Opportunity Employer and values diversity in our workforce. Applicants selected as finalists will be subject to a comprehensive background check.



# Compensation & Benefits

The City of New Fairview offers a competitive salary depending upon the applicant's qualifications and experience (prior rate was \$62,400 per annum). In addition to a competitive salary, the City provides a generous benefits package which includes comprehensive medical coverage, life insurance, disability, retirement (mandatory TMRS at 7%: 2-to-1 and a voluntary deferred compensation plan), paid vacation, paid sick leave, paid holidays, and a flexible work schedule.



**City Council Agenda  
December 6, 2021**

**Agenda Item:**

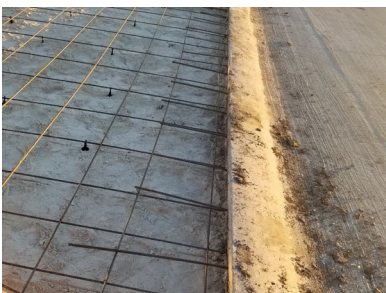
**(Work Session)**

**Agenda Description:**

Discuss with staff the 2021 Streets Improvement Project.

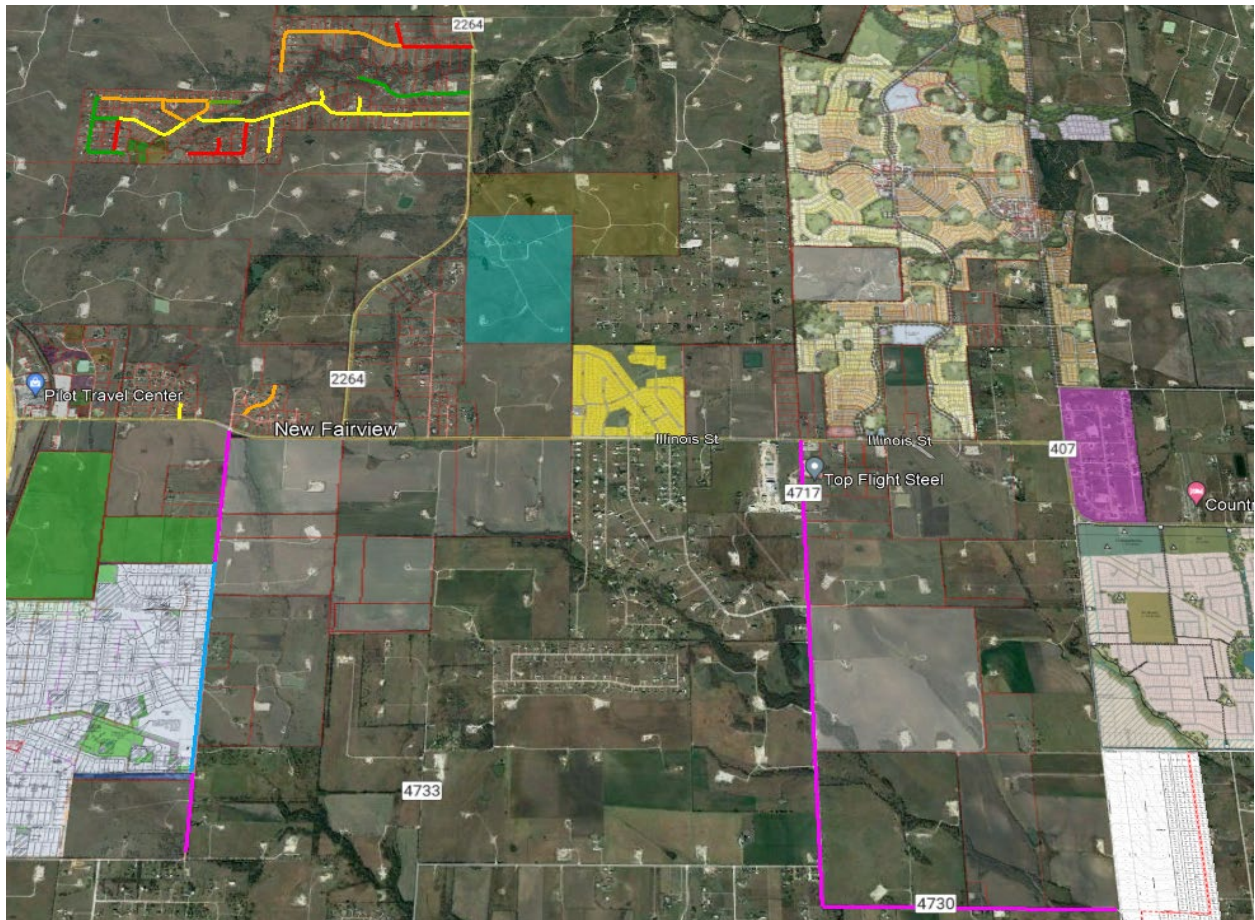
**Background Information:**

The installation of drainage culverts is almost completed, with the final work to be completed in Montana Court, and the box culverts under Hilltop Trail to replace the nine failing culverts.





The final grading and alignment of the bar ditches, to match the edge of the newly installed asphalt roads, will be completed in conjunction with the asphalt.



**Financial Information:**

<b>Revenues</b>	<b>FY 2020/21</b>	<b>FY 2021/22</b>	<b>Total-to-Date</b>
Fund Balance (Cash)	\$ -	\$ 2,774,924	
General Fund Transfer-in	300,000	-	300,000
Bond Proceeds	3,005,794	-	3,005,794
<b>Total Revenues</b>	<b>\$ 3,305,794</b>	<b>\$ 2,774,924</b>	<b>\$ 3,305,794</b>

<b>Expenditures</b>	<b>FY 2020/21</b>	<b>FY 2021/22</b>	<b>Total-to-Date</b>
<b>Soft Costs</b>	<b>\$ 275,238</b>	<b>\$ 3,916</b>	<b>\$ 279,154</b>
Engineering	273,788	3,916	277,704
Legal Notices	1,450	-	1,450
<b>Construction Costs</b>	<b>255,632</b>	<b>416,653</b>	<b>672,285</b>
B Judge Lane	21,585	-	21,585
Chisholm Hills/Montana Ct.	234,047	416,653	650,701
<b>ROW Acquisition</b>	<b>-</b>	<b>2,640</b>	<b>2,640</b>
<b>Total Expenditures</b>	<b>\$ 530,870</b>	<b>\$ 423,209</b>	<b>\$ 954,079</b>

<b>Fund Balance (Cash)</b>	<b>2,774,924</b>	<b>2,351,715</b>	<b>2,351,715</b>
----------------------------	------------------	------------------	------------------

**City Contact and Recommendation:**

Ben Nibarger, City Administrator

**Attachments:**

N/A



**City Council Agenda  
December 6, 2021**

**Agenda Item:** **Ordinance** **(Action Item)**

**Agenda Description:**

An ordinance of the City of New Fairview, Texas, adopting and enacting a new code of ordinances; providing for the repeal of certain ordinances not included therein; providing a penalty for the violation thereof not exceeding \$500 generally or not exceeding \$2,000 for violations relating to fire safety, zoning or public health and sanitation or not exceeding \$4,000 for violations relating to dumping of refuse; providing for the amendment of such code; and providing when such code and this ordinance shall become effective.

**Background Information:**

Staff and Franklin Legal have finalized the codification of the City's ordinances. Upon adoption, the code of ordinances will be hosted online and easily searchable by interested parties.

**Financial Information:**

The fees for the service were paid in the prior fiscal year.

**City Contact and Recommendation:**

Ben Nibarger, City Administrator

**Attachments:**

Codified Ordinances

Ordinance to Adopt Codified Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF NEW FAIRVIEW, TEXAS, ADOPTING AND ENACTING A NEW CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF NOT EXCEEDING \$500 GENERALLY OR NOT EXCEEDING \$2,000 FOR VIOLATIONS RELATING TO FIRE SAFETY, ZONING OR PUBLIC HEALTH AND SANITATION OR NOT EXCEEDING \$4,000 FOR VIOLATIONS RELATING TO DUMPING OF REFUSE; PROVIDING FOR THE AMENDMENT OF SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS:

Section 1. That the Code of Ordinances of the City of New Fairview, Texas, consisting of Chapters 1 through 12, each inclusive, and Appendices, is hereby adopted and enacted which shall supersede all other general and permanent ordinances of the City passed on or before April 5, 2021.

Section 2. All ordinances of a general and permanent nature enacted on or before April 5, 2021, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The codification consists of all ordinances as codified therein and as may be revised pursuant to the ordinance codification process and as evidenced by the memorandum of understanding provided as a part of said process.

Section 4. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 5. Unless a differing penalty is expressly provided for within the Code, every person convicted of a general violation of any provision of the Code or any rule, ordinance, or police regulation of the City shall be punished by a fine not to exceed \$2,000.00 for violations of all such rules, ordinances and police regulations that govern fire safety, zoning, or public health and sanitation, not to exceed \$4,000.00 for violations of all such rules, ordinances and police regulations that govern the dumping of refuse, and not exceeding \$500.00 for all other violations. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. 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.

Section 6. Additions or amendments to the Code when passed in such form as to indicate the intention of the City Council to make same a part of the Code shall be deemed to be incorporated into the Code, so that reference to the Code includes the additions and amendments.

Section 7. Ordinances adopted after April 5, 2021, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 8. This ordinance and the Code adopted hereby shall become effective upon final passage of this ordinance.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

**CODE OF ORDINANCES**  
**OF THE**  
**CITY OF NEW FAIRVIEW, TEXAS**

**As Codified By:**



**2435 20<sup>th</sup> Street**  
**Lubbock, Texas 79411**  
**806.797.8281**  
**[www.franklinlegal.net](http://www.franklinlegal.net)**





# TABLE OF CONTENTS

## NEW FAIRVIEW CODE OF ORDINANCES

<b>CHAPTER 1: GENERAL PROVISIONS.....</b>	<b>1-1</b>
Article 1.01 Code of Ordinances .....	1-7
Article 1.02 Emergency Management.....	1-13
<b>CHAPTER 2: ADMINISTRATION AND PERSONNEL.....</b>	<b>2-1</b>
Article 2.01 General Provisions .....	2-7
Article 2.02 City Council .....	2-7
Article 2.03 Officers and Employees .....	2-8
Division 1. Generally .....	2-8
Division 2. City Administrator.....	2-8
Article 2.04 Code of Ethics .....	2-9
Article 2.05 Police .....	2-12
Article 2.06 Municipal Court .....	2-13
Division 1. Generally .....	2-13
Division 2. Fees, Costs and Special Expenses .....	2-15
Article 2.07 Records Management .....	2-15
Article 2.08 Finances.....	2-19
Article 2.09 Taxation.....	2-19
Division 1. Generally .....	2-19
Division 2. Property Tax .....	2-19
Division 3. Sales and Use Tax .....	2-21
<b>CHAPTER 3: ANIMAL CONTROL .....</b>	<b>3-1</b>
Article 3.01 General Provisions .....	3-7
Article 3.02 Dangerous Dogs .....	3-15
<b>CHAPTER 4: BUILDING REGULATIONS .....</b>	<b>4-1</b>
Article 4.01 General Provisions .....	4-7
Article 4.02 Building and Construction Codes and Standards .....	4-8
Article 4.03 Substandard Buildings.....	4-8

**CHAPTER 4: BUILDING REGULATIONS, cont'd.**

Article 4.04 Rental Property Registration and Inspection ..... 4-17  
Article 4.05 Flood Damage Prevention ..... 4-22  
Article 4.06 Signs ..... 4-38  
    Division 1. Generally ..... 4-38  
    Division 2. Administration..... 4-42  
    Division 3. Appeals and Variances ..... 4-46  
    Division 4. General Sign Regulations ..... 4-47  
    Division 5. Specific Sign Regulations ..... 4-50  
    Division 6. Exemptions and Special Conditions ..... 4-57  
Article 4.07 Swimming Pools and Spas ..... 4-58  
Article 4.08 Excavations and Site Preparation ..... 4-62  
Article 4.09 Installation of Utility Lines, Pipelines and Telecommunication  
    Transmission Paths ..... 4-64

**CHAPTER 5: BUSINESS REGULATIONS ..... 5-1**

Article 5.01 General Provisions ..... 5-7  
Article 5.02 Alcoholic Beverages..... 5-7  
Article 5.03 Home Child Care..... 5-10  
    Division 1. Generally ..... 5-10  
    Division 2. Permit ..... 5-12  
Article 5.04 Hydrocarbons Wells ..... 5-14  
Article 5.05 Sexually Oriented Businesses ..... 5-46  
Article 5.06 Annual Safety Inspection Program..... 5-72

**CHAPTER 6: FIRE PREVENTION AND PROTECTION..... 6-1**

Article 6.01 General Provisions ..... 6-7  
Article 6.02 Open Burning ..... 6-7  
Article 6.03 Fireworks..... 6-8

**CHAPTER 7: HEALTH AND SANITATION ..... 7-1**

Article 7.01 General Provisions ..... 7-7  
Article 7.02 Trash, Weeds and Other Unsanitary Conditions ..... 7-7

**CHAPTER 8: OFFENSES AND ADDITIONAL PROVISIONS ..... 8-1**

Article 8.01 General Provisions ..... 8-7

Article 8.02 Weapons ..... 8-7

Article 8.03 Noise ..... 8-7

Article 8.04 Odors ..... 8-8

Article 8.05 Abandoned or Junked Vehicles ..... 8-9

**CHAPTER 9: PLANNING AND DEVELOPMENT REGULATIONS..... 9-1**

Article 9.01 General Provisions ..... 9-7

Article 9.02 Subdivision Ordinance ..... 9-7

Article 9.03 Zoning Ordinance ..... 9-7

Article 9.04 Planning and Zoning Commission ..... 9-7

Exhibit A Subdivision Ordinance ..... 9A-3

Exhibit B Zoning Ordinance ..... 9B-3

**CHAPTER 10: STREETS, PARKS AND OTHER PUBLIC WAYS AND PLACES ..... 10-1**

Article 10.01 General Provisions ..... 10-7

Article 10.02 Streets and Sidewalks ..... 10-7

**CHAPTER 11: TRAFFIC AND VEHICLES ..... 11-1**

Article 11.01 General Provisions ..... 11-7

Article 11.02 Parking ..... 11-8

Article 11.03 Commercial Vehicles ..... 11-8

    Division 1. Generally ..... 11-8

    Division 2. Weight Limits ..... 11-8

**CHAPTER 12: UTILITIES..... 12-1**

Article 12.01 General Provisions ..... 12-7

Article 12.02 Solid Waste ..... 12-7

    Division 1. Generally ..... 12-7

    Division 2. Collection ..... 12-8

Article 12.03 Water ..... 12-13

Article 12.04 On-Site Sewage Facilities ..... 12-14

Article 12.05 Water Conservation Plan ..... 12-16

**APPENDIX A: FEE SCHEDULE ..... APPENDIX A-1**

Article A1.000 Miscellaneous Fees ..... A-7

Article A2.000 Building and Development Related Fees ..... A-8

Article A3.000 Municipal Court Fees..... A-12

**APPENDIX B: ORDINANCE DISPOSITION TABLE ..... APPENDIX B-1**

**INDEX ..... I-1**

# CHAPTER 1

## GENERAL PROVISIONS

ARTICLE 1.01 CODE OF ORDINANCES.....	1-7
Sec. 1.01.001 Adoption.....	1-7
Sec. 1.01.002 Designation and citation of code.....	1-7
Sec. 1.01.003 Catchlines of articles, divisions and sections .....	1-7
Sec. 1.01.004 Definitions and rules of construction .....	1-7
Sec. 1.01.005 Severability of parts of code.....	1-10
Sec. 1.01.006 Repeal of ordinances .....	1-10
Sec. 1.01.007 Amendments or additions to code.....	1-10
Sec. 1.01.008 Supplementation of code.....	1-11
Sec. 1.01.009 General penalty for violations of code; continuing violations .....	1-11
Sec. 1.01.010 Certain ordinances not affected by code .....	1-12
ARTICLE 1.02 EMERGENCY MANAGEMENT.....	1-13
Sec. 1.02.001 Organization .....	1-13
Sec. 1.02.002 Powers and duties of emergency management director .....	1-14
Sec. 1.02.003 Emergency management plan .....	1-15
Sec. 1.02.004 Interjurisdictional program.....	1-15
Sec. 1.02.005 Override.....	1-15
Sec. 1.02.006 Liability .....	1-15
Sec. 1.02.007 Commitment of funds.....	1-16
Sec. 1.02.008 Offenses; penalty.....	1-16
Sec. 1.02.009 Limitations .....	1-16

[Next page is 1-7.]



**ARTICLE 1.01 CODE OF ORDINANCES\*****Sec. 1.01.001 Adoption**

There is hereby adopted the Code of Ordinances of the City of New Fairview, Texas, as compiled, edited and published by Franklin Legal Publishing, Inc. (Ordinance adopting Code)

**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 New Fairview, Texas,” and may be so cited. (Ordinance adopting Code)

**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. (Ordinance adopting Code)

**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 New Fairview, 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 New Fairview, 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.

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

---

\* **State law reference**—Authority of municipality to codify ordinances, V.T.C.A., Local Government Code, ch. 53.



*Council.* Whenever the term “council” or “city council” or “the council” is used, it shall mean the city council of the City of New Fairview, 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 Wise, 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 curblin 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.

Subdivision. The word “subdivision” means the division of any tract of land situated inside the City of Fairview in two or more parts to lay out a subdivision of the tract, including an addition, or to lay out subdivision of the building lots and to lay out streets, alleys, squares or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares or other parts. This includes a division of land regardless of whether it is made by using a metes and bounds description in a deed of conveyance of [or] in a contract for deed, by using a contract of sale or other executor contract to convey or by using any other method.

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.

(Ordinance 1998-05-0014, ch. 1, adopted 3/9/98; Ordinance adopting 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. (Ordinance adopting 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 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. (Ordinance adopting 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.

(Ordinance adopting 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, other than the dumping of refuse, may not exceed two thousand dollars (\$2,000.00).

- (c) A fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed four thousand dollars (\$4,000.00).
- (d) 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 \$1.00 or more than \$200.00 plus such other penalties and costs as may be provided by such subtitle C.
- (e) 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.
- (f) No penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state.
- (g) 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.
- (h) 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.
- (i) In the event authorizing state law is amended, modified, superseded or otherwise changed to alter the allowable punishment range, then the city's range of punishment shall likewise be amended, modified, superseded or otherwise changed.

(Ordinance adopting 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.

**Sec. 1.01.010 Certain ordinances not affected by code**

- (a) Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this code:
  - (1) Any offense or act committed or done or any penalty or forfeiture or any contract or right established or accruing before the effective date of this code;
  - (2) Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness;
  - (3) Any contract or obligation assumed by the city;
  - (4) Any right or franchise granted by the city;
  - (5) Any ordinance relating to municipal street maintenance agreements with the state;

- (6) Any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget;
- (7) Any ordinance relating to local improvements and assessments therefor;
- (8) Any ordinance annexing territory to the city or discontinuing territory as a part of the city;
- (9) Any ordinance approving plats of subdivisions or additions to the city, prescribing restrictions or regulations for the same or otherwise relating to a specific subdivision or addition;
- (10) Any ordinance zoning or rezoning property or granting specific use permits or amending the zoning map;
- (11) Any ordinance levying fees, charges or rates.

(b) All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein. All ordinances are on file in the city secretary's office.

(Ordinance 1998-05-0014, sec. 1-2, adopted 3/9/98)

## **ARTICLE 1.02 EMERGENCY MANAGEMENT\***

### **Sec. 1.02.001 Organization**

There exists the office of emergency management director of the city, which shall be held by the mayor in accordance with state law.

- (1) An emergency management coordinator may be appointed by and serve at the pleasure of the director.
- (2) The director shall be responsible for a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in this article. He/she may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.
- (3) The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.

(Ordinance 2000-04-0064, sec. 1, adopted 3/13/00)

---

\* **State law reference**—Local and interjurisdictional emergency management, V.T.C.A., Government Code, ch. 418.

**Sec. 1.02.002 Powers and duties of emergency management director**

The duties and responsibilities of the emergency management director shall include the following:

- (1) Conduct an ongoing survey of actual or potential hazards which threaten life and property within the city and an ongoing program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.
- (2) Supervision of the development and approval of an emergency management plan for the city, and shall recommend for adoption by the city council all mutual aid arrangements deemed necessary for the implementation of such plan.
- (3) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period in excess of 7 days except by or with the consent of the city council. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary.
- (4) Issuance of necessary proclamations, regulations or directives which are necessary for carrying out the purposes of this article. Such proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring the contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the city secretary.
- (5) Direction and control of the operations of the city emergency management organization as well as the training of emergency management personnel.
- (6) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.
- (7) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency management organizations.
- (8) Marshaling of all necessary personnel, equipment or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.
- (9) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which the city is located, and with other municipalities within the county, for the county-wide coordination of emergency management efforts.
- (10) Supervision of and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.
- (11) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.

- (12) Survey of the availability of existing personnel, equipment, supplies, and services which could be used during a disaster, as provided for herein.
- (13) Other requirements as specified in the Texas Disaster Act of 1975, Texas Government Code chapter 418.

(Ordinance 2000-04-0064, sec. 2, adopted 3/13/00)

**Sec. 1.02.003      Emergency management plan**

A comprehensive emergency management plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization, establish and designate divisions and functions, assign responsibilities, tasks, duties, and powers, and designate officers and employees to carry out the provisions of this article. As provided by state law, the plan shall follow the standards and criteria established by the state division of emergency management. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the state division of emergency management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The emergency management plan shall be considered supplementary to this article and have the effect of law during the time of a disaster. (Ordinance 2000-04-0064, sec. 3, adopted 3/13/00)

**Sec. 1.02.004      Interjurisdictional program**

The mayor is hereby authorized to join with the county judge in the formation of an emergency management council for the county and shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a county-wide program of emergency management insofar as said program may affect the city. (Ordinance 2000-04-0064, sec. 4, adopted 3/13/00)

**Sec. 1.02.005      Override**

At all times when the orders, rules, and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith. (Ordinance 2000-04-0064, sec. 5, adopted 3/13/00)

**Sec. 1.02.006      Liability**

This article is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety and neither the city, the agents and representatives of the city, nor any individual, receiver, firm, partner, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rule, or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license or privilege or otherwise permits the city to inspect, designate and use the whole or any part or parts of such



real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack or natural or man-made disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person. (Ordinance 2000-04-0064, sec. 6, adopted 3/13/00)

**Sec. 1.02.007 Commitment of funds**

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the city council unless during a declared disaster. During a declared disaster, the mayor may expend and/or commit public finds of the city when deemed prudent and necessary for the protection of health, life, or property. (Ordinance 2000-04-0064, sec. 7, adopted 3/13/00; Ordinance adopting Code)

**Sec. 1.02.008 Offenses; penalty**

(a) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this article, or to do any act forbidden by any rule or regulation issued pursuant to the authority ordained in this article.

(b) It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the emergency management organization of the city unless authority to do so has been granted to such person by the proper officials.

(c) Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this article and shall be subject to the penalties imposed by this article.

(d) Convictions for violations of the provisions of this article shall be punishable by fine not to exceed one thousand dollars (\$1,000.00).

(Ordinance 2000-04-0064, sec. 8, adopted 3/13/00)

**Sec. 1.02.009 Limitations**

This article shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule, or regulation. (Ordinance 2000-04-0064, sec. 10, adopted 3/13/00)

# CHAPTER 2

## ADMINISTRATION AND PERSONNEL

ARTICLE 2.01 GENERAL PROVISIONS .....	2-7
Sec. 2.01.001    Name of city .....	2-7
Sec. 2.01.002    Enforcement of code; citations.....	2-7
ARTICLE 2.02 CITY COUNCIL .....	2-7
Sec. 2.02.001    Composition; terms; place system.....	2-7
Sec. 2.02.002    Rules of order .....	2-8
ARTICLE 2.03 OFFICERS AND EMPLOYEES .....	2-8
Division 1. Generally .....	2-8
Sec. 2.03.001    Texas Municipal Retirement System .....	2-8
Division 2. City Administrator.....	2-8
Sec. 2.03.031    Office created; appointment and removal; qualifications; duties.....	2-8
Sec. 2.03.032    Authority to execute contracts, agreements and plats .....	2-8
ARTICLE 2.04 CODE OF ETHICS .....	2-9
Sec. 2.04.001    Definitions.....	2-9
Sec. 2.04.002    Policy.....	2-9
Sec. 2.04.003    Unethical activity .....	2-10
Sec. 2.04.004    Personal or private interest of officer .....	2-11
Sec. 2.04.005    Attendance at meetings .....	2-11
Sec. 2.04.006    Violation of code of ethics; appeals .....	2-12
ARTICLE 2.05 POLICE .....	2-12
Sec. 2.05.001    Office of marshal abolished; rights and duties transferred to chief of police.....	2-12
Sec. 2.05.002    Police department.....	2-12
ARTICLE 2.06 MUNICIPAL COURT .....	2-13
Division 1. Generally .....	2-13
Sec. 2.06.001    Established; jurisdiction .....	2-13
Sec. 2.06.002    Judges.....	2-13
Sec. 2.06.003    Court clerk.....	2-14
Sec. 2.06.004    Official jail .....	2-15
Division 2. Fees, Costs and Special Expenses .....	2-15
Sec. 2.06.031    Building security fund.....	2-15
ARTICLE 2.07 RECORDS MANAGEMENT .....	2-15
Sec. 2.07.001    Definitions.....	2-15
Sec. 2.07.002    City records declared public property .....	2-17
Sec. 2.07.003    Policy.....	2-17
Sec. 2.07.004    Designation of records management officer.....	2-17
Sec. 2.07.005    Records management committee.....	2-17

Sec. 2.07.006 Records management plan to be developed; approval of plan; authority of plan ..... 2-17

Sec. 2.07.007 Records control schedules to be developed; approval; filing with state..... 2-18

Sec. 2.07.008 Implementation of records control schedules; destruction of records under schedule..... 2-18

Sec. 2.07.009 Destruction of unscheduled records ..... 2-19

ARTICLE 2.08 FINANCES..... 2-19

Sec. 2.08.001 Procurement policy ..... 2-19

ARTICLE 2.09 TAXATION..... 2-19

Division 1. Generally ..... 2-19

Division 2. Property Tax ..... 2-19

Sec. 2.09.031 Residence homestead tax freeze for elderly or disabled persons ..... 2-19

Sec. 2.09.032 Residence homestead exemption for disabled veteran or surviving spouse..... 2-20

Sec. 2.09.033 Residence homestead exemption for disabled persons ..... 2-20

Sec. 2.09.034 Residence homestead exemption for elderly persons..... 2-20

Sec. 2.09.035 Taxation of goods-in-transit ..... 2-21

Division 3. Sales and Use Tax..... 2-21

Sec. 2.09.061 Tax on telecommunications services..... 2-21

[Next page is 2-7.]

**ARTICLE 2.01 GENERAL PROVISIONS**

**Sec. 2.01.001 Name of city**

The City of Fairview will now be known as City of New Fairview. (Ordinance 1999-17-0044 adopted 7/12/99)

**Sec. 2.01.002 Enforcement of code; citations**

(a) It shall be unlawful for a person or corporation to intentionally and knowingly fail to appear in accordance with the terms of a citation issued hereunder.

(b) It shall be unlawful for a person being issued a citation to intentionally or knowingly give other than his true name and address.

(c) It shall be unlawful for any person to intentionally or knowingly interfere or impede with the performance of a person’s duty as authorized by the council.

(Ordinance 1998-05-0014, sec. 1-4, adopted 3/9/98; Ordinance 2007-12-127 adopted 9/18/07)

**ARTICLE 2.02 CITY COUNCIL\***

**Sec. 2.02.001 Composition; terms; place system**

The legislative and governing body of the city shall consist of a mayor and five (5) council members and shall be known as the “Council of the City of New Fairview.”

- (1) The mayor shall be elected by a majority vote of the qualified voters voting at the election.
- (2) The five (5) council members shall be elected to individual places, designated by number (1 through 5), from the city at large, and each shall be elected by a majority vote of the qualified voters voting at the election.
- (3) The mayor and each council member shall hold the office for a period of two (2) years and until a successor is duly elected and qualified.
- (4) In each odd-numbered year the mayor and two (2) council members, Places 2 and 4, shall be elected. In each even-numbered year three (3) council members, Places 1, 3 and 5, shall be elected.

(Ordinance 2020-01-196 adopted 1/20/20)

**State law reference**—Election of aldermen by place system in general-law municipality, V.T.C.A., Local Government Code, sec. 21.001.

---

\* **State law references**—Type A form of government, V.T.C.A., Local Government Code, sec. 5.001, sec. 22.001 et seq.

**Sec. 2.02.002 Rules of order**

(a) Because of the conditions prevailing in the city and to maintain order and proper flow of city business at the regularly and special scheduled council meetings it has become necessary to enact this section.

(b) The current edition of the Robert’s Rules of Order Newly Revised is adopted for all parliamentary procedures conducted by the city.

(Ordinance 1998-18-0027, adopted 12/7/98)

**ARTICLE 2.03 OFFICERS AND EMPLOYEES**

**Division 1. Generally**

**Sec. 2.03.001 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. (Ordinance adopting Code)

**State law reference**–Texas Municipal Retirement System generally, V.T.C.A., Government Code, ch. 851 et seq.

**Secs. 2.03.002–2.03.030 Reserved**

**Division 2. City Administrator**

**Sec. 2.03.031 Office created; appointment and removal; qualifications; duties**

The city council hereby creates the office of city administrator, who shall serve as the chief administrative officer of the city. The general duties and qualifications of the city administrator shall be as provided for in the job description adopted by city council. The city council, by a majority vote, shall appoint a competent person as city administrator as soon as reasonably possible after the creation of this office who meets the established job requirements. Likewise, any person appointed as city administrator shall serve at the discretion of the city council and may be removed by a majority vote. (Ordinance 2020-02-0197 adopted 2/24/20; Ordinance adopting Code)

**Sec. 2.03.032 Authority to execute contracts, agreements and plats**

The city council grants to the city administrator authority to execute, on behalf of the city, any and all contracts and agreements approved by the city council. The city council further grants to the city administrator authority to execute, on behalf of the city, any and all plats approved by the city council. (Ordinance 2020-18-213, sec. 1, adopted 9/14/20)

**ARTICLE 2.04 CODE OF ETHICS\*****Sec. 2.04.001 Definitions**

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

Censure means a formal written resolution of the city council reprimanding one of its members for violation of the code of ethics.

Duties in office means the duties of an officer relative to their service under the laws and the constitution of the state and the ordinances of the city.

Officer means any member of the city council and any appointive board, commission, authority or committee set up by ordinance, resolution, or state law on a permanent basis, except any members of a board, commission, authority or committee that functions in an advisory or study capacity.

Reprimand means a formal or informal public admonition concerning a violation of the code of ethics.

Sanction means a formal written resolution of the city council imposing an incentive for securing enforcement which may include, but is not limited to, disqualification of consideration of a matter, [or] forfeiture of council appointments or duties.

(Ordinance 2007-02-117, sec. 2, adopted 3/20/07; Ordinance adopting Code)

**Sec. 2.04.002 Policy**

It is hereby declared to be the policy of the city that the proper operation of democratic government requires that officers be independent, impartial and responsible only to the people of the city; that the efficient function of city government requires diligent attendance to the business of the city by its officers; that the governmental decisions and policy be made in the proper channels of the governmental structure; that no officer should have any interest financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with proper discharge of such office in the public interest; that public office not be used for personal gain; and that the city council or board or commission at all times shall be maintained as a nonpartisan body. To implement such a policy, the city council deems it advisable to enact this code of ethics for all officers, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the city's public servants, but also as a basis for discipline for those who refuse to abide by its terms. (Ordinance 2007-02-117, sec. 3, adopted 3/20/07)

---

\* **State law references**—Conflicts of interest of officers, V.T.C.A., Local Government Code, ch. 171; disclosure of certain relationships with local government officers, V.T.C.A., Local Government Code, ch. 176; ethics, V.T.C.A., Government Code, ch. 571 et seq.

**Sec. 2.04.003 Unethical activity**

No officer of the city shall:

- (1) Accept any gift or favor from any person that might reasonably tend to influence such person in the discharge of official duties, or grant in the discharge of official duties any improper favor, service or thing of value.
- (2) Use such person's official position to secure special privileges or exemptions for such person or others.
- (3) Grant any special consideration, treatment or advantage to any citizen, individual, business, organization or group beyond that which is available to every other citizen, individual, business, organization or group.
- (4) Disclose information that could adversely affect the property, government or affairs of the city, or directly or indirectly use any information gained by reason of such person's official position for such person's own personal gain or benefit or for the private interest of others.
- (5) Transact any business on behalf of the city in such person's official capacity with any business entity with which such person is an officer, agent or member or in which such person owns a substantial interest. In the event that such a circumstance should arise, then such person shall make known such interest, and in the case of an officer, abstain from voting on the matter, state the reasons for doing so and have nothing further to do with the matter involved.
- (6) Engage in any outside activities which will conflict with, or will be incompatible with, the duties assigned to such person's service to the city or reflect discredit upon the city, or in which such service in the city will give to such person an advantage over others engaged in a similar business, vocation or activity.
- (7) Accept or engage in outside activities incompatible with the full and proper discharge of duties and responsibilities of such person with the city, or which might impair independent judgment in the performance by such person of public duty.
- (8) Receive any fee or compensation for services as an officer of the city from any source other than the city, except as may be otherwise provided by law. This shall not prohibit such person performing the same or other services for a private organization that such person performs for the city if there is no conflict with city duties and responsibilities of such person.
- (9) (A) Represent, while an officer, directly or indirectly, or appear in behalf of private interests of others before any agency of the city or any board, commission, authority or committee, or represent any private interest of others in any action or proceeding involving the city, or participate on behalf of others in any litigation to which the city might be a part, or even accept any retainer or compensation that is contingent upon a specific action taken by the city or any of its agencies, except as may be authorized by law.

- (B) Represent, while an officer, directly or indirectly, or appear in behalf of the private interests of others before the board, commission, authority or committee of which such person is a member, or before the city council or board which has appellate jurisdiction over the board, commission, authority or committee of which such person is a member, with regard to matters that may be the subject of specific action by any such body.
- (10) Use the prestige of such person’s position or office in behalf of any single political party in such a way that it gives the impression of being endorsed by the government of the city, but such person shall at all times maintain the nonpartisan policy of the city; provided that all officials are encouraged to register, participate, and vote as they may choose in all elections.
- (11) Knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the city ordinances, rules or regulations or the achievement of official city programs.
- (12) Use city supplies, equipment or facilities for any purpose other than the conduct of official city business unless these supplies, equipment or facilities are authorized through an appropriate contract or license or membership available to the general public or otherwise made available for public use.
- (13) Engage willfully and knowingly in any dishonest act or be convicted of any crime involving moral turpitude, in connection with their duties in office, which is prejudicial to the government of the city or impairs the operation of the city. Nothing contained herein shall be construed to mean that conviction of solely a class C misdemeanor shall be construed as grounds for unethical conduct.

(Ordinance 2007-02-117, sec. 4, adopted 3/20/07)

**Sec. 2.04.004 Personal or private interest of officer**

Any officer who has either a personal or private interest in any matter pending before such person’s office shall disclose such interest to the other members thereof, and shall refrain from discussing the same publicly with any other member thereof and shall not vote thereon. (Ordinance 2007-02-117, sec. 5, adopted 3/20/07)

**Sec. 2.04.005 Attendance at meetings**

Attendance of all officers at meetings of their respective office shall be mandatory unless excused. In order for an absence to be considered excused, an officer shall be responsible for notifying the mayor or chairperson in the event of an absence prior to any meeting. If the officer notifies the mayor, mayor pro-tem, deputy mayor pro-tem or chairperson in any other manner or after the absence, the validity of the excuse shall be decided by the membership of the council or board. A partial absence and a complete absence shall be considered the same. The officers may compel attendance of their members at all of their respective meetings. (Ordinance 2007-02-117, sec. 6, adopted 3/20/07)



**Sec. 2.04.006 Violation of code of ethics; appeals**

The failure of any officer to comply with or the violation of one or more of the [provisions of the] code of ethics set forth in this article, which apply to such person, shall constitute grounds for reprimand, censure, or subject the member to sanctions or actions. In the case of a city council member, the matter shall be decided by a majority of the remainder of the council members. In the case of members of boards, commissions, committees and authorities, the matter shall be referred by the chairperson to the city council. The decision of the city council shall be final in the absence of bias, prejudice or fraud. (Ordinance 2007-02-117, sec. 7, adopted 3/20/07; Ordinance adopting Code)

**ARTICLE 2.05 POLICE\***

**Sec. 2.05.001 Office of marshal abolished; rights and duties transferred to chief of police**

(a) Acting pursuant to V.T.C.A., Local Government Code, section 22.076, the office of town marshal for the city is abolished.

(b) The board of council members shall be authorized to appoint, hire, and designate a police chief to serve as the chief law enforcement officer for the city upon such conditions and for such tenure and at such rate of pay as in the best judgment of the board of council members may be deemed appropriate. In keeping with the same, the board of council members shall also be entitled to select and appoint and hire such assistants to aid and assist the chief of police of the city in the performance of the duties of the chief of police as may be deemed appropriate at any given time.

(c) All previous rights, functions, obligations, and duties attendant to the office of city marshal are hereby transferred and conveyed over to the person occupying the designated office of chief of police for the city.

(Ordinance 1998-09-0018 adopted 7/27/98)

**State law reference**—Abolition of office of marshal, V.T.C.A., Local Government Code, sec. 22.076.

**Sec. 2.05.002 Police department**

(a) There is hereby created a police department for the city consisting of the chief of police and such other police officers as may be appointed by the chief and confirmed by vote of the city council.

(b) The chief and other police officers shall not be appointed unless eligible for certification by the state commission on law enforcement officer standards and education as a peace officer.

(c) The chief and other police officers shall serve at the pleasure of the city council. The chief may suspend any police officer until the council can act.

---

\* **State law references**—Police force in type A general-law municipality, V.T.C.A., Local Government Code, sec. 341.001; commission on law enforcement officer standards and education, V.T.C.A., Occupations Code, ch. 1701.

(d) No bond shall be required of the chief or any other police officer.

(Ordinance 1999-02-0029 adopted 1/11/99)

## **ARTICLE 2.06 MUNICIPAL COURT\***

### **Division 1. Generally**

#### **Sec. 2.06.001 Established; jurisdiction**

(a) There is hereby created and constituted a municipal court for the city, to be styled and known as the “Municipal Court of the City of Fairview, Texas,” which court shall have and exercise full jurisdiction within the territorial limits as conferred by Government Code, Judicial Branch, chapter 29, Municipal Courts, Texas codes, and other relevant Texas statutes.

(b) The municipal court shall meet and hold regular sessions to hear and determine all cases arising before it, such sessions to be held and called by the municipal court judge. The municipal court may be in continuous session, either day or night.

(Ordinance 1998-10-0019, sec. I, adopted 8/10/98)

**State law references**—Municipal court jurisdiction, V.T.C.A., Government Code, sec. 29.003, Tex. Code Crim. Proc. art. 4.14.

#### **Sec. 2.06.002 Judges**

(a) Appointment. The municipal court shall be presided over by a magistrate who shall be appointed by the city council, and shall be known as the “chief municipal court judge.” The council shall appoint assistant judges as it deems necessary. Such assistant judges shall be appointed and removed in the same manner as the chief municipal court judge, and shall serve in the absence of and have all the authority of the chief municipal court judge as provided by state law.

(b) Term. The chief municipal court judge shall be selected and appointed or reappointed for a term of two (2) years, commencing April first of even-numbered years. The appointment or reappointment of assistant judges shall be for a term of one (1) year from the date of their appointment or reappointment and shall be initiated upon the recommendations of the chief municipal court judge, concurred in by the city council.

(c) Authority of chief judge. Unless otherwise directed by the city council, the chief municipal court judge may prescribe such rules and procedures, not inconsistent with the laws of the state and ordinances of the city, as are necessary for the orderly trial of cases in the municipal court; further, he or she shall direct the assignment of cases, matters or proceedings pending in the municipal court; and further, he or she shall prescribe the conditions under which assistant municipal judges shall sit as judge.

---

\* **State law references**—Municipal courts generally, V.T.C.A., Government Code, ch. 29; procedures for processing cases within criminal jurisdiction of municipal court, Tex. Code Crim. Proc. ch. 45.

(d) Submission of budget. The chief municipal court judge shall submit annually to the city secretary a budget estimate of the revenues of the municipal court and the expenses of conducting the affairs thereof for the ensuing fiscal year.

(e) Removal. The city council may remove an appointed judge by council resolution declaring a lack of confidence in the judge, provided that two-thirds of the council vote in favor of the resolution, after due notice and an opportunity for the judge to be heard in his or her own defense.

(Ordinance 1998-10-0019, sec. II, adopted 8/10/98)

**State law references**—Municipal court judges, V.T.C.A., Government Code, sec. 29.004 et seq.; term of municipal court judge, V.T.C.A., Government Code, sec. 29.005.

**Sec. 2.06.003 Court clerk**

(a) Within the municipal court system and under the general supervision of the chief municipal court judge, there is hereby created the office of clerk of the municipal court.

(b) The municipal court clerk shall be the city secretary and his or her successors in the office. The municipal court clerk shall keep the minutes of the proceedings of said municipal court, issue all process, and generally perform all the duties of the court clerk of a court as prescribed by law for a county clerk insofar as the same is applicable. The municipal court clerk shall also perform all duties in accordance with state statutes and city ordinances. The municipal court clerk shall be a duly qualified notary public.

(c) The city council may remove the court clerk for incompetence, misconduct, malfeasance in office, or other reason after the clerk is given due notice and an opportunity to be heard in his or her own defense.

(d) The municipal court clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto and otherwise perform all acts necessary in issuing process of the municipal court and conducting the business thereof.

(e) The municipal court clerk shall be responsible for the proper administration of the affairs of the municipal court clerk's office and shall:

- (1) Maintain and keep a record of the business of the municipal court, which records shall be open to public inspection.
- (2) Collect and account for all fines paid in all cases filed in the municipal court.
- (3) Maintain and keep a record of all bonds filed with the municipal court.
- (4) Perform any duties as may be from time to time be authorized, delegated or required by the chief municipal court judge or the city council.

(Ordinance 1998-10-0019, sec. III, adopted 8/10/98)

**State law reference**—Municipal court clerk generally, V.T.C.A., Government Code, sec. 29.010.

**Sec. 2.06.004 Official jail**

The city jail, or any other jail facility as may be from time to time contracted with by the city, shall be designated as the official city jail for the city. (Ordinance 1998-10-0019, sec. IV, adopted 8/10/98)

**Secs. 2.06.005–2.06.030 Reserved****Division 2. Fees, Costs and Special Expenses\*****Sec. 2.06.031 Building security fund**

(a) Established. Pursuant to powers granted by article 102.017 of the Code of Criminal Procedure, a municipal court building security fund is hereby established for the city.

(b) Method of funding; fee established. Said fund shall be funded by a charge as set forth in the fee schedule in appendix A of this code on each person convicted in trial for a misdemeanor offense in the municipal court of the city. The fee shall be taxed as costs of court on each conviction of a misdemeanor offense. Conviction shall include payment of a fine, imposition of community service, imposition of probation, suspension or deferred adjudication.

(c) Collection and credit of funds; use of funds. The clerk of the court will collect the costs and cause such to be deposited to the credit of the city municipal court for credit in a fund to be known as the municipal court building security fund. This fund may be used only to finance security services for the municipal court building that are listed in subsections (1) through (13) of article 102.017(c) of the Code of Criminal Procedure.

(d) Administration. The fund created herein shall be administered by or under the direction of the city council.

(Ordinance 1998-11-0020 adopted 8/10/98)

**State law reference**—Authority to establish municipal court building security fund, Tex. Code Crim. Proc. art. 102.017.

**ARTICLE 2.07 RECORDS MANAGEMENT†****Sec. 2.07.001 Definitions**

City records. All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information-recording media, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created [or] received by [the city in] the transaction of

\* **State law references**—Collection of fines and costs, Tex. Code Crim. Proc. art. 45.203; costs paid by defendants, Tex. Code Crim. Proc. ch. 102; additional court fees and costs, V.T.C.A., Government Code, ch. 103; contracts for collection services, Tex. Code Crim. Proc. art. 103.0031.

† **State law references**—Local Government Records Act, V.T.C.A., Local Government Code, ch. 201 et seq.; local government records management program to be established, V.T.C.A., Local Government Code, sec. 203.026.

public business, are hereby declared to be the records of the city, and shall be created, maintained, and disposed of in accordance with the provisions of this article or procedures authorized by it and in no other manner. The term does not include:

- (1) Extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;
- (2) Notes, journals, diaries and other similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;
- (3) Blank forms;
- (4) Stocks of publications;
- (5) Library and museum materials acquired solely for the purpose of reference or display; or
- (6) Copies of documents in any media furnished to members of the public to which they are entitled under chapter 552, Texas Government Code, or other state law.

Department head means the officer who by ordinance, order, or administrative policy is in charge of an office of the city that creates or receives records.

Essential record means any record of the city necessary to the resumption or continuation of operations of the city in an emergency or disaster, to the re-creation of the legal and financial status of the city, or to the protection and fulfillment of obligations to the people of the state.

Permanent record means any record of the city for which the retention period on a records control schedule is given as permanent.

Records control schedule means a document prepared by or under the authority of the records management officer listing the records maintained by the city, their retention periods, and other records disposition information that the records management program may require.

Records management means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purpose of reducing the cost and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographic and electronic and other records storage systems.

Records management committee means the committee established in section 2.07.005 of this article.

Records management officer means the person designated in section 2.07.004 of this article.

Records management plan means the plan developed under section 2.07.006 of this article.

*Retention period* means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

(Ordinance 1998-12-0021, sec. 1, adopted 8/10/98)

**Sec. 2.07.002 City records declared public property**

All city records as defined in this article are hereby declared to be the property of the city. No city official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited. (Ordinance 1998-12-0021, sec. 2, adopted 8/10/98)

**Sec. 2.07.003 Policy**

It is hereby declared to be the policy of the city to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice. (Ordinance 1998-12-0021, sec. 3, adopted 8/10/98)

**Sec. 2.07.004 Designation of records management officer**

The city secretary and the successive holders of said office shall serve as records management officer for the city. As provided by state law, each successive holder of the office shall file his or her name with the director and librarian of the state library within 30 days of the initial designation or of taking up the office, as applicable. (Ordinance 1998-12-0021, sec. 4, adopted 8/10/98)

**Sec. 2.07.005 Records management committee**

A records management committee consisting of the department heads of the city departments is hereby established to assist the records management officer in the development of a records management plan for the efficient and economical management of city records, including policies and procedures for the administration of the plan. (Ordinance 1998-12-0021, sec. 5, adopted 8/10/98)

**Sec. 2.07.006 Records management plan to be developed; approval of plan; authority of plan**

(a) The records management officer and the records management committee shall develop a records management plan for the city for submission to the city council. The plan must contain policies and procedures to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the essential records of the city, and to properly preserve those records of the city that are of historical value. The plan must be designed to enable the records management officer to carry out his or her duties prescribed by state law and this article effectively.

(b) Once approved by the city council, the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the city and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

(c) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this article and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the city.

(Ordinance 1998-12-0021, sec. 6, adopted 8/10/98)

**Sec. 2.07.007 Records control schedules to be developed; approval; filing with state**

(a) The records management officer, in cooperation with the records management committee, shall prepare records control schedules on a department-by-department basis listing all records created or received by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of city records as the records management plan may require.

(b) Each records control schedule shall be monitored and amended as needed by the records management officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state and that it continues to reflect the recordkeeping procedures and needs of the department and the records management program of the city.

(c) Before its adoption a records control schedule or amended schedule for a department must be approved by the members of the records management committee.

(d) Before its adoption a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The records management officer shall submit the records control schedules to the director and librarian.

(Ordinance 1998-12-0021, sec. 7, adopted 8/10/98)

**Sec. 2.07.008 Implementation of records control schedules; destruction of records under schedule**

(a) A records control schedule for a department that has been approved and adopted under section 2.07.006 shall be implemented by all departments according to the policies and procedures of the records management plan.

(b) A record whose retention period has expired on a records control schedule shall be destroyed unless an open record request is still pending on the record, the subject matter of the record is pertinent to a pending lawsuit, or the department head requests in writing to the records management committee that the record be retained for an additional period.



(c) Prior to the destruction of a record [under] an approved records control schedule, authorization for the destruction must be obtained by the records management officer from the records management committee.

(Ordinance 1998-12-0021, sec. 8, adopted 8/10/98)

**Sec. 2.07.009 Destruction of unscheduled records**

A record that has not yet been listed on the approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under the approved schedule and the records management officer has submitted to and received back from the director and librarian an approved destruction authorization request. (Ordinance 1998-12-0021, sec. 9, adopted 8/10/98)

**ARTICLE 2.08 FINANCES\***

**Sec. 2.08.001 Procurement policy**

The city council has reviewed the procurement policy attached to Ordinance 2020-13-208 and determines it to be acceptable. A copy of the procurement policy is available for public inspection at the city offices. (Ordinance 2020-13-208, adopted 5/18/20; Ordinance adopting Code)

**ARTICLE 2.09 TAXATION**

**Division 1. Generally**

**Secs. 2.09.001–2.09.030 Reserved**

**Division 2. Property Tax<sup>†</sup>**

**Sec. 2.09.031 Residence homestead tax freeze for elderly or disabled persons**

(a) Effective with tax year 2020, the total amount of ad valorem taxes imposed on the residence homestead of a person who is disabled or is sixty-five years of age or older shall not be increased while it remains the residence homestead of that person or that person’s spouse who is disabled or sixty-five years of age or older.

(b) If the person who is disabled or is sixty-five years of age or older dies in a year in which the person received a residence homestead exemption, the total amount of ad valorem taxes imposed on the residence homestead shall not be increased while it remains the residence homestead of that person’s surviving spouse if the spouse is fifty-five years of age or older at the time of the person’s death.

---

\* **State law references**—General financial authority of type A municipalities, V.T.C.A., Local Government Code, sec. 101.001 et seq.; municipal budget, V.T.C.A., Local Government Code, ch. 102; purchasing and contracting authority of municipalities, V.T.C.A., Local Government Code, chs. 252, 271.

<sup>†</sup> **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.

(c) Notwithstanding subsections (a) and (b), taxes on the residence homestead may be increased to the extent the value of the homestead is increased by improvements other than repairs and other than improvements made to comply with governmental requirements.

(Ordinance 2019-08-195 adopted 11/4/19)

**State law reference**—Limitation of municipal tax on homesteads of disabled and elderly, V.T.C.A., Tax Code, sec. 11.261.

**Sec. 2.09.032 Residence homestead exemption for disabled veteran or surviving spouse**

From and after January 1, 2021, a disabled veteran and the surviving spouse of a deceased veteran shall be entitled to an exemption from taxation by the city of a portion of the assessed value of property the disabled veteran or the surviving spouse of a deceased veteran owns and designates as provided in section 11.22 of the Texas Tax Code. (Ordinance 2020-09-204 adopted 5/4/20)

**State law reference**—Disabled veterans, V.T.C.A., Tax Code, sec. 11.22.

**Sec. 2.09.033 Residence homestead exemption for disabled persons**

(a) Pursuant to section 11.13 of the Texas Tax Code, from and after January 1, 2021, \$10,000.00 of the assessed value of residence homesteads, as defined by law, of an individual (regardless of age) who qualifies for disability benefits under the federal old-age, survivors, and disability insurance program shall be exempt from taxation by the city.

(b) An eligible disabled person who is 65 years of age or older may not receive the residence homestead exemption for qualifying both as “disabled” and “65 or older,” but may choose either.

(Ordinance 2020-10-205 adopted 5/4/20)

**State law reference**—Residence homestead tax exemptions, V.T.C.A., Tax Code, sec. 11.13.

**Sec. 2.09.034 Residence homestead exemption for elderly persons**

(a) Pursuant to section 11.13 of the Texas Tax Code, from and after January 1, 2021, \$10,000.00 of the assessed value of residence homesteads, as defined by law, of an individual who is 65 years of age or older shall be exempt from taxation by the city.

(b) An eligible disabled person who is 65 years of age or older may not receive the residence homestead exemption for qualifying both as “disabled” and “65 or older,” but may choose either.

(Ordinance 2020-11-206 adopted 5/4/20)

**State law reference**—Residence homestead tax exemptions, V.T.C.A., Tax Code, sec. 11.13.

**Sec. 2.09.035 Taxation of goods-in-transit**

Beginning in tax year 2012, and continuing thereafter until further action is taken by the city council, “goods-in-transit,” as defined by Tax Code section 11.253, as amended, shall be subject to ad valorem property taxation by the city. (Ordinance 2011-04-162 adopted 10/18/11)

**State law reference**—Tax exemption for goods-in-transit, V.T.C.A., Tax Code, sec. 11.253.

**Secs. 2.09.036–2.09.060 Reserved**

**Division 3. Sales and Use Tax\***

**Sec. 2.09.061 Tax on telecommunications services**

(a) A tax is hereby authorized on all telecommunications services sold within the city. For purposes of this section, the sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other communication originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call or other communication is billed.

(b) The rate of the tax imposed by this section shall be the same as the rate imposed by the city for all other local sales and use taxes as authorized by the legislature of the state.

(c) This section shall become effective as of October 4, 1999.

(Ordinance 1999-27-0054 adopted 10/4/99)

**State law reference**—Authority of municipality to impose tax on sale of telecommunications services, V.T.C.A., Tax Code, sec. 321.210.

---

\* **State law reference**—Authority of municipality to impose local sales and use tax, V.T.C.A., Tax Code, ch. 321.



# CHAPTER 3

## ANIMAL CONTROL

ARTICLE 3.01 GENERAL PROVISIONS .....	3-7
Sec. 3.01.001 Definitions .....	3-7
Sec. 3.01.002 Penalty .....	3-9
Sec. 3.01.003 Enforcement .....	3-9
Sec. 3.01.004 Citations; authority of animal control officers .....	3-9
Sec. 3.01.005 Rabies control.....	3-10
Sec. 3.01.006 Animals at large; impoundment .....	3-11
Sec. 3.01.007 Nuisances .....	3-12
Sec. 3.01.008 Confinement of stray animal by individual .....	3-13
Sec. 3.01.009 Abandonment of animal .....	3-13
Sec. 3.01.010 Cruelty.....	3-13
Sec. 3.01.011 Livestock prohibited in certain places; riding horses on street .....	3-14
Sec. 3.01.012 Breeding livestock.....	3-14
Sec. 3.01.013 Herding animals in public place.....	3-14
Sec. 3.01.014 Keeping livestock .....	3-14
Sec. 3.01.015 Keeping fowl.....	3-14
Sec. 3.01.016 Keeping bees .....	3-15
Sec. 3.01.017 Killing or injuring birds.....	3-15
Sec. 3.01.018 Killing, injuring or capturing animals on public property.....	3-15
Sec. 3.01.019 Disposal of dead animals.....	3-15
ARTICLE 3.02 DANGEROUS DOGS.....	3-15
Sec. 3.02.001 Definition .....	3-15
Sec. 3.02.002 Dangerous dogs.....	3-16
Sec. 3.02.003 Determination that dog is dangerous.....	3-16
Sec. 3.02.004 Requirements for owner .....	3-16
Sec. 3.02.005 Registration .....	3-16
Sec. 3.02.006 Attacks by dangerous dog .....	3-17
Sec. 3.02.007 Defenses .....	3-18

[Next page is 3-7.]



**ARTICLE 3.01 GENERAL PROVISIONS\*****Sec. 3.01.001 Definitions**

The following words and phrases, for purpose of this chapter, have the following meanings:

Animal. Unless otherwise stated includes any living creature including, but not limited to, dogs, cats, cows, horses, birds, fish, mammals, reptiles, insects, fowl and livestock, but specifically excluding human beings.

Animal control officer. The person or persons that are qualified and designated by the city to represent and act for the city in the impoundment of animals, controlling of stray animals and as otherwise required in this chapter.

[Animal shelter or city shelter.] The shelter provided for by the city, whether owned by the city or contracted for by the city.

At large. An animal that is not confined on or off the owner's or keeper's premises by a containment device of sufficient strength and/or height to prevent an animal from escaping there from inside the house or other enclosure or secured on said premises by a leash of sufficient strength to prevent the animal from escaping from said premises, and so arranged that the animal will remain upon said premises when the leash is stretched to full length in any direction. An animal shall not be considered "at large" when held and controlled by some person, physically or by means of a leash or chain of proper strength and length to control the actions of the animal or while confined within a vehicle. An animal in the back of a pick-up truck is not an animal running at large. An animal that answers to commands that is under the command of its owner or trainer while on the property of the owner or other property with permission of property owner may be unconfined if being exercised for play or work.

Auction. Any place or facility where animals are bought, sold or traded except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales of animals by owners.

Building. Any enclosed structure intended for use or occupation as a habitation.

Cats. The word "cats" means cats of all ages, both male and female.

Dogs. The word "dogs" means dogs of all ages, both male and female.

Domestic animals. Any animals that are kept for commercial purposes, i.e., breeding, or production of food, fur, eggs, feathers, or fertilizers, including but not limited to the following: sheep, goats, chickens, ducks and geese or other fowl, and includes livestock.

Enter. The intrusion of the entire body.

Exotic animals. Any mammal, amphibian, reptile or fowl which is not naturally tame or gentle and is generally not found in the wild in the continental United States and those regulated and defined by the state department of parks and wildlife as exotic.

---

\* **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.

Fowl. Chickens, turkeys, pheasants, quail, geese, ducks, or similar tethered [feathered] animals regardless of age, sex or breed.

Habitation. A structure that is adapted for the overnight accommodation of persons and includes the following:

- (1) Each separately secured or occupied portion of the structure; and
- (2) Each structure appurtenant to or connected with the structure.

Livestock. Domesticated animals normally kept for farm purposes, including but not limited to cattle, horses, sheep, goats and pigs.

Nuisance. Any thing or animal which is injurious to the health or morals or indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property is declared a nuisance and as such shall be abated.

Owner. Any person who has legal or equitable title to any animal, harbors or keeps any animal in his possession, or who permits any animal to remain on or about his premises.

Pet shop. Any person, partnership or corporation, whether operated separate or in connection with another business enterprise except a licensed kennel, that buys, sells or boards any species of pets.

Possession. Actual care, custody, control or management of a certain animal.

Premises. The grounds and all buildings and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person.

Public place. Any place to which the public or a substantial group of the public has access and includes but is not limited to streets, sidewalks, highways, alleyways, parks and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

Rabies vaccination. Properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture and/or department of state health services and administered by a veterinarian licensed to practice in the state.

Stray. To wander upon a public place or the property of another person.

Vicious animal. Any unprovoked animal, whether on public or private property, who approaches a person or domestic animal and exhibits vicious or terrorizing behavior in an apparent attitude of attack, whether it inflicts injury or not. Vicious animal includes, but is not limited to, any dog with a known propensity to attack without provocation or otherwise cause injury or endanger the safety of human beings or other domestic animals and a dog trained, owned, or harbored for the purposes of dog fighting.

Wild animals. All animals and reptiles which commonly exist in a natural, unconfined state and are usually not domesticated, regardless of the circumstances or duration of captivity. Examples of wild animals include but are not limited to the following: lions, tigers, bobcats, cougars,



panthers, leopards, cheetahs, bears, javelinas, wolves, coyotes, elephants, gila monsters, water moccasins, coral snakes, rattlesnakes, copperheads, king cobras, any poisonous snake or reptile, pythons, boa constrictors, crocodiles and alligators.

(Ordinance 2000-13-0073, sec. I, adopted 8/14/00)

**Sec. 3.01.002 Penalty**

(a) It shall be unlawful for any person, firm or corporation to violate the provisions of this chapter. Any such violation shall constitute a misdemeanor, and upon conviction thereof shall be punished by fine in accordance with the general penalty provision found in section 1.01.009 of this code.

(b) Each and every day that a violation of this chapter continues shall constitute a separate offense.

(Ordinance 2000-13-0073, sec. IX, adopted 8/14/00)

**Sec. 3.01.003 Enforcement**

(a) The enforcement of this article shall be the responsibility of the chief of police and his designated animal control officer(s).

(b) Any police officer, the animal control officer, ordinance officer, and the local health official shall have authority to issue citations for violation of the provisions of this chapter.

(c) It shall be unlawful for any person to interfere with any authorized officer performing duties under this chapter.

(Ordinance 2000-13-0073, sec. VIII, adopted 8/14/00)

**Sec. 3.01.004 Citations; authority of animal control officers**

(a) Citations; right of entry; interference with animal control officer.

- (1) The animal control officer shall have the authority to issue citations for any violation of this chapter.
- (2) It shall be unlawful for any person upon being issued a citation to intentionally or knowingly give the animal control officer other than his true name and address.
- (3) It shall be unlawful to intentionally or knowingly fail to appear in accordance with the terms of a citation issued by the animal control officer.
- (4) If the person being cited is not present, the animal control officer may send the citation to the alleged offender by certified or registered mail, return receipt requested, whereupon service shall be deemed complete.
- (5) It shall be unlawful for any person to intentionally or knowingly interfere with the animal control officer in the performance of his duties.

- (6) The animal control officer shall have right of ingress and egress on private property for the purpose of apprehending an animal at large.

(b) Authority to carry tranquilizer guns. When acting in the course and scope of his employment the animal control officer shall be and is hereby authorized to carry on his person, or in his city vehicle, loaded tranquilizer guns approved by the director of animal control and not in violation of any provision of the Texas Penal Code or any other applicable state law.

(Ordinance 2000-13-0073, sec. IV(B), (C), adopted 8/14/00)

**Sec. 3.01.005 Rabies control**

(a) Vaccination of dogs and cats required. All dogs and cats within the city, four (4) months of age or over, shall be vaccinated. Such vaccination certificate shall reflect the name of the owner, his address, a description of the dog or cat, the date of the vaccination, the number of the vaccination tag and the kind of vaccination used. The veterinarian shall furnish the owner with a metal tag; on one side shall be stamped the words “Vaccinated against Rabies” and the date of the vaccination; this tag shall be securely attached to the collar or harness of the dog or cat at all times.

(b) Reporting of rabies cases; confinement of suspected rabid animals. It shall be the duty of the owner, custodian, or the veterinarian to report to the city shelter all cases of rabies or suspected rabies of which any of the persons have knowledge. Any animal having rabies or symptoms thereof, or suspected of having rabies, or which has been exposed to rabies, shall be immediately released by the owner to the city for confinement in the shelter or, immediately upon facts having come to the attention of the owner or custodian of such animal with respect to its being rabid or having been exposed to rabies, such dog, cat or other animal shall be immediately and securely quarantined and kept under supervision of the city shelter for a period of not less than ten (10) days.

(c) Confinement of animal that has bitten person.

- (1) When a dog, cat or other animal has bitten, scratched or otherwise attacked a person, that person or anyone having knowledge of such incident shall immediately notify the city and such dog, cat or other animal shall be confined in the shelter or at a veterinary hospital for a period of ten (10) days at the expense of the owner, and such dog, cat or other animal shall, during such period of confinement, be subject to inspection by city personnel, or a licensed veterinarian. If, after the ten (10) day period, the owner fails to pick up the animal, the owner is notified and granted five (5) additional days to pick up the animal at a charge in accordance with the current fee schedule adopted by the city council. After this time limit, the city shelter can then adopt or dispose of the animal.
- (2) If the animal in question has a valid and current vaccination, the owner shall have authority to secure the animal on his own property, provided that the animal be inspected by a veterinarian at the end of the quarantine period.

(d) Quarantine fee. The owner of any dog or cat held in quarantine for observation purposes shall be charged a fee in accordance with the current fee schedule adopted by the city council. This fee is in addition to any impoundment fee.

(Ordinance 2000-13-0073, sec. II, adopted 8/14/00)

**State law references**—Rabies vaccinations, V.T.C.A., Health and Safety Code, sec. 826.021 et seq.; rabies reports and quarantine, V.T.C.A., Health and Safety Code, sec. 826.041 et seq.

**Sec. 3.01.006 Animals at large; impoundment**

(a) Dogs running at large. Any person owning, possessing, or keeping a dog or dogs within the city, vaccinated or unvaccinated, shall confine such dog or dogs within an adequate fence or enclosure, or within a house, garage or other building, or shall keep such dog or dogs confined by a leash or chain affixed to the dog’s collar and attached to some stationary object adequate to prevent the dog or dogs from running at large.

(b) Impounding of dogs. The animal control officer shall take into custody any dog found at large in the city, and shall impound the dog in the city shelter. Such impounded dog shall be held for a period of three (3) days, and at the end of the time, if the dog has not been claimed and the proper fee paid as prescribed herein, the dog shall be adopted or disposed of.

(c) Authority to kill, impound or destroy animals. The animal control officer shall have authority to do the following:

- (1) Kill an animal which poses an imminent danger to a person or property and a real or apparent necessity exists for the destruction of the animal.
- (2) Impound an animal that is diseased and endangers the health and welfare of another animal or person.
- (3) Destroy an impounded animal if the animal control officer determines that recovery of the animal is doubtful due to injury or disease.

(d) Impoundment fees.

- (1) The owner of an impounded animal will pay fees in accordance with the current fee schedule adopted by the city council in order to redeem such animal.
- (2) A handling charge in accordance with the current fee schedule adopted by the city council will be added to the above amount before redemption of the animal.
- (3) Any person claiming an animal that has not been vaccinated for rabies within the last year shall pay an impoundment fee in accordance with the current fee schedule adopted by the city council. Before releasing the animal, the owner shall sign a promise in writing that the animal will be vaccinated for rabies immediately upon release from the shelter. The animal control officer shall keep such a statement in a safe place and, upon receiving proof of the vaccination within five (5) days, shall refund the difference above the normal amount owed. Should such a statement be signed and the animal is impounded again, and the animal not having been vaccinated as promised, then the impoundment fee shall be in accordance with the

current fee schedule adopted by the city council. Upon each subsequent impoundment of such animals, [if] the same not have been vaccinated, an additional fee shall be assessed in accordance with the current fee schedule adopted by the city council.

(e) Euthanasia request. If the lawful owner of an animal requests euthanasia due to probable reasons, the owner must first sign the required forms. The city shelter will pay for euthanasia.

(f) Adoption.

(1) A person who desires to adopt an animal from the shelter shall:

(A) Pay an adoption fee in accordance with the current fee schedule adopted by the city council;

(B) Pay any license fee if required;

(C) Have the animal vaccinated for rabies within five (5) days after adoption; and

(D) Have the animal spayed or neutered within fourteen (14) days after adoption, providing the animal is of the proper age for such procedure.

(2) The city shelter shall make the final determination whether a dog or cat is healthy enough for adoption. However, such a decision by the animal control officer to permit adoption of a particular dog or cat shall not constitute a warranty, expressed or implied, of the health or age of the animal.

(Ordinance 2000-13-0073, sec. III, adopted 8/14/00)

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

**Sec. 3.01.007 Nuisances**

(a) Noisy animals. No person shall willfully or knowingly keep or harbor on his premises or elsewhere any animal or fowl of any kind that makes or creates an unreasonable disturbance of the neighbors or the occupants of adjacent premises or persons living in the vicinity thereof or persist [permit] such animal to make or create disturbing noises by howling, barking, crowing, bawling or otherwise. A person shall be deemed to have willfully and knowingly violated the terms of this section if such person shall have been notified by the city shelter or any police officer of such disturbance and shall have failed or refused to correct such disturbance and prevent its recurrence.

(b) Unsanitary of offensive conditions. The harboring of any animal in such a manner as to endanger the public health by the accumulation of animal wastes which create foul and offensive odors or create a breeding place for flies or mosquitoes.

(c) Trespasses by animal. It shall be unlawful for any person to maintain any animal in any area which constitutes a nuisance by reason of repeated trespasses on public or private property.

(Ordinance 2000-13-0073, sec. IV(A), adopted 8/14/00)

**Sec. 3.01.008 Confinement of stray animal by individual**

If a stray animal is found upon the premises of another, the occupant of the premises may confine the animal only for so long as reasonably necessary to notify the shelter and have the animal impounded. In attempting to confine the animal, the occupant shall not use any force that is intended or known by the occupant to cause, or in the manner of its use is capable of causing, death or injury to the animal. (Ordinance 2000-13-0073, sec. V(A), adopted 8/14/00)

**Sec. 3.01.009 Abandonment of animal**

It shall be unlawful for any person to intentionally or knowingly abandon any animal within the corporate limits of the city. (Ordinance 2000-13-0073, sec. V(B), adopted 8/14/00)

**Sec. 3.01.010 Cruelty**

(a) Confinement of animal in motor vehicle or trailer. It shall be unlawful for any person to intentionally or knowingly confine or allow to be confined any animal in a motor vehicle or trailer under such conditions or for such a period of time as may endanger the health or well-being of the animal due to heat, lack of food or water or any other circumstance which causes suffering, disability or death of the animal.

(b) Inspection of premises where animals are kept. Premises where livestock, fowl or pets are kept or maintained shall be subject to inspection, upon receiving a complaint, by the city shelter at any reasonable hour of the day while in the presence of the owner.

(c) Cruelty to animals. No person shall overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate, or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel and inhumane manner, any animal, or cause any of these acts to be done.

(d) Poisoning animals. No person shall in any place accessible to birds, dogs, cats or other animals, with the intent to kill or harm such animals, place any substance which has in any manner been treated with any poisonous substance.

(e) Fighting. No person shall maintain any place where fowls or any animals are suffered to fight upon exhibition, or for sport upon wager.

(f) Tying dogs. It shall be unlawful to tie or tether a dog to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian as determined by the city shelter.

(g) Food and shelter. No person shall fail to provide any animal in his charge or custody with sustenance, drink and protection from these elements, or cause any of these acts to be done.

(Ordinance 2000-13-0073, sec. VI, adopted 8/14/00)

**State law references**—Cruelty to livestock animals, V.T.C.A., Penal Code, sec. 42.09; cruelty to nonlivestock animals, V.T.C.A., Penal Code, sec. 42.092; unlawful restraint of dog, V.T.C.A., Health and Safety Code, sec. 821.076 et seq.

**Sec. 3.01.011 Livestock prohibited in certain places; riding horses on street**

It shall be unlawful for any person to ride or allow any type of livestock upon any public school grounds, college grounds, public park property or municipal grounds within the city except those designated as bridle paths or other designated riding exhibiting areas for animals. On streets, horses shall be ridden as close as possible to the curb and in no event shall horses be allowed on highways. It shall be unlawful for any person to ride or allow any type of livestock upon the property of another within the city except with the express consent of the owner or person in charge of such property obtained prior therein. (Ordinance 2000-13-0073, sec. X(A), adopted 8/14/00)

**Sec. 3.01.012 Breeding livestock**

It shall be unlawful for any person to intentionally or knowingly keep for breeding purposes or employ for breeding purposes any jack, bull, stallion, ram, he-goat or other livestock within 2 acres or less. (Ordinance 2000-13-0073, sec. X(B), adopted 8/14/00)

**Sec. 3.01.013 Herding animals in public place**

It shall be unlawful for any person to intentionally or knowingly move herds of animals along or upon any public place within the corporate city limits without the permission of the city council, except that this section shall not be applicable to any officer, agent or employee of the federal, state or local government if such herding is done in the performance of his official duties. (Ordinance 2000-13-0073, sec. X(C), adopted 8/14/00)

**Sec. 3.01.014 Keeping livestock**

(a) Hogs. It shall be unlawful for any person to intentionally or knowingly feed or keep any species of swine in any lot, pen, building, stable or other enclosure in the city, any part of which lot, pen, building, stable or other enclosure is nearer than one hundred (100) feet to any neighboring habitat. Only one pig is allowed per every five acres.

(b) Other animals. It shall be unlawful for any person to intentionally or knowingly feed, stable, pasture or keep any cow, goat, horse, mule, donkey, sheep or other livestock, except swine, in any lot, pen, building, stable or other enclosure in the city, any part of which lot, pen, building, stable or other enclosure is within two hundred (200) feet of any building. Only one head of livestock is allowed per acre.

(Ordinance 2000-13-0073, sec. X(D), adopted 8/14/00)

**Sec. 3.01.015 Keeping fowl**

It shall be unlawful for any person to intentionally or knowingly keep any chicken, turkey, guinea, goose, duck, quail, pheasant or other game fowl in any fenced yard or enclosure, any part of which is within one hundred (100) feet of any neighboring habitat in the city. (Ordinance 2000-13-0073, sec. X(G), adopted 8/14/00)

**Sec. 3.01.016 Keeping bees**

It shall be unlawful for any person to knowingly keep bees in such a manner as to deny the reasonable use and enjoyment of adjacent property or endanger the personal health and welfare of the inhabitants of the city. Bees shall not be kept in subdivisions of the city. (Ordinance 2000-13-0073, sec. X(H), adopted 8/14/00)

**Sec. 3.01.017 Killing or injuring birds**

It shall be unlawful for any person to intentionally kill, injure or administer poison to any bird, excluding fowl, whatsoever within a subdivision of the city without express permission of the city council. (Ordinance 2000-13-0073, sec. X(E), adopted 8/14/00)

**Sec. 3.01.018 Killing, injuring or capturing animals on public property**

Except as may be otherwise provided in this chapter, it shall be unlawful to intentionally or knowingly interfere with, injure, capture or kill any animal within any public park, driveway, street or other public property of the city except by permission of the city council; provided that this section shall not apply to harmful rodents, reptiles or insects. (Ordinance 2000-13-0073, sec. X(F), adopted 8/14/00)

**Sec. 3.01.019 Disposal of dead animals**

It shall be unlawful for any person to place, put or leave a dead animal upon a public place, street, alley, right-of-way or public way or in any solid waste container or upon the property of another person without the other person’s consent. (Ordinance 2000-13-0073, sec. X(I), adopted 8/14/00)

**ARTICLE 3.02 DANGEROUS DOGS\***

**Sec. 3.02.001 Definition**

As used in this chapter, “dangerous dog” means a dog that:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause bodily injury to that person or domestic animal.

(Ordinance 2000-13-0073, sec. VII(A), adopted 8/14/00)

---

\* **State law reference**—Dangerous dogs, V.T.C.A., Health and Safety Code, sec. 822.041 et seq.

**Sec. 3.02.002 Dangerous dogs**

Dangerous dogs, as defined in V.T.C.A., Health and Safety Code, section 822.041, shall be regulated in accordance with the provisions of V.T.C.A., Health and Safety Code, chapter 822, subchapter D, section 822.041 et seq. (Ordinance adopting Code)

**Sec. 3.02.003 Determination that dog is dangerous**

(a) Investigation and determination. If a person reports an unprovoked attack as described in section 3.02.001, the chief of police or his or her designee may investigate the incident. If, after receiving the sworn statements of any witnesses, the chief of police or his or her designee determines that the dog is a dangerous dog, he/she shall notify the owner of that fact.

(b) Appeals. An owner, not later than the 30th day after the date the owner is notified that his/her dog is a dangerous dog, may appeal the determination of the chief of police or his or her designee to court of competent jurisdiction. An owner may appeal the decision of else [sic] municipal court in the same manner as for other civil cases.

(Ordinance 2000-13-0073, sec. VII(B), adopted 8/14/00)

**Sec. 3.02.004 Requirements for owner**

(a) Not later than the 30th day after a person learns that he/she is the owner of a dangerous dog, he/she shall:

- (1) Register the dangerous dog with the chief of police or his or her designee;
- (2) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure; and
- (3) Obtain liability insurance coverage or show financial responsibility in an amount of at least one hundred thousand dollars (\$100,000.00) to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person.

(b) For purposes of this article, a person learns that he/she is the owner of a dangerous dog when:

- (1) The owner knows of an attack described in section 3.02.001; or
- (2) The owner is informed by the chief of police or his or her designee that the dog is a dangerous dog.

(Ordinance 2000-13-0073, sec. VII(C), adopted 8/14/00)

**Sec. 3.02.005 Registration**

(a) The chief of police or his or her designee shall formally register a dangerous dog if the owner [submits the following]:

- (1) The names, address and telephone number of persons owning, keeping or harboring a dangerous animal;



- (2) Name and general description of each dangerous animal, which general description shall include name, sex, weight, color, breed, height and length along with any other discernible features;
  - (3) Presents proof of:
    - (A) Liability insurance or financial responsibility as required by section 3.02.004(a)(3);
    - (B) Current rabies vaccination of the dangerous dog; and
    - (C) The secure enclosure in which the dangerous dog will be kept; and
  - (4) Pays an annual registration fee in accordance with the current fee schedule adopted by the city council.
- (b) The chief of police or his or her designee shall provide to the owner registering a dangerous dog a registration tag. The owner must place the tag on the dog's collar.
- (c) If an owner of a registered dangerous dog sells or moves the dog to a new address within the city, he/she, not later than the 14th day after the date of sale or move, shall notify the chief of police or his or her designee. On presentation by the current owner of the dangerous dog's prior registration tag and payment of a fee in accordance with the current fee schedule adopted by the city council, the chief of police or his or her designee shall issue a new registration tag to be placed on the dog's collar.
- (d) Every owner of a registered dangerous dog shall notify the chief of police or his or her designee by whom the dog was registered of any attacks the dangerous dog makes on people.
- (e) The animal control officer shall impound any such animal found within the corporate city limits after the time for appeal has lapsed, or after twenty-four (24) hours from the rendering of an affirming order of the city council.

(Ordinance 2000-13-0073, sec. VII(D), adopted 8/14/00)

**Sec. 3.02.006 Attacks by dangerous dog**

- (a) A person commits an offense if his/her dangerous dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person. Should the attack cause serious bodily injury or death, the person may be subject to other criminal prosecution under the laws of the state in a court of competent jurisdiction.
- (b) If a person is found guilty of an offense under this article, the court may order that the dangerous dog be destroyed.

(c) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed ten thousand dollars (\$10,000.00). The city attorney may file suit in a court of competent jurisdiction to collect the penalty. The city shall retain penalties collected under this subsection.

(Ordinance 2000-13-0073, sec. VII(E), adopted 8/14/00)

**Sec. 3.02.007 Defenses**

(a) It is a defense to prosecution under this article that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with and while performing the duties of that position.

(b) It is a defense to prosecution under this article that the person is an employee of the institutional division of the state department of criminal justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes and such person has temporary ownership, custody, or control of the dog in connection with and while performing the duties of that position.

(c) It is a defense to prosecution under this article that the person is a dog trainer or an employee of a guard dog company under the Private Security Act, V.T.C.A., Occupations Code, chapter 1702, and while performing the duties of that position.

(Ordinance 2000-13-0073, sec. VII(F), adopted 8/14/00)

# CHAPTER 4

## BUILDING REGULATIONS

ARTICLE 4.01 GENERAL PROVISIONS .....	4-7
Sec. 4.01.001 Building permits .....	4-7
Sec. 4.01.002 Pre-occupancy inspection .....	4-7
Sec. 4.01.003 Covering or fencing of holes, ditches and excavations .....	4-8
ARTICLE 4.02 BUILDING AND CONSTRUCTION CODES AND STANDARDS .....	4-8
Sec. 4.02.001 Codes adopted .....	4-8
Sec. 4.02.002 Violations; penalty .....	4-8
ARTICLE 4.03 SUBSTANDARD BUILDINGS .....	4-8
Sec. 4.03.001 Purpose .....	4-8
Sec. 4.03.002 Building standards .....	4-9
Sec. 4.03.003 Procedures .....	4-12
Sec. 4.03.004 Violations .....	4-13
Sec. 4.03.005 Repair or demolition by city .....	4-14
Sec. 4.03.006 Performance of work by city; lien for city's expenses .....	4-16
Sec. 4.03.007 Notice of lien .....	4-17
Sec. 4.03.008 Discharge of lien .....	4-17
ARTICLE 4.04 RENTAL PROPERTY REGISTRATION AND INSPECTION .....	4-17
Sec. 4.04.001 Purpose .....	4-17
Sec. 4.04.002 Definitions .....	4-18
Sec. 4.04.003 Registration .....	4-18
Sec. 4.04.004 Inspection required .....	4-19
Sec. 4.04.005 Frequency of inspections .....	4-20
Sec. 4.04.006 Certificate of occupancy required .....	4-20
Sec. 4.04.007 Inspection procedure; notice of violation; correction of violations .....	4-20
Sec. 4.04.008 Request for inspection .....	4-20
Sec. 4.04.009 Expiration of certificate of occupancy .....	4-21
Sec. 4.04.010 Transfer of certificate of occupancy .....	4-21
Sec. 4.04.011 Availability of certificate of occupancy .....	4-21
Sec. 4.04.012 Suspension or revocation of certificate of occupancy .....	4-21
Sec. 4.04.013 Records .....	4-21
Sec. 4.04.014 Exemptions .....	4-21
Sec. 4.04.015 Fees .....	4-22
Sec. 4.04.016 Violations declared nuisance; injunctive relief .....	4-22
Sec. 4.04.017 Other remedies .....	4-22
Sec. 4.04.018 Penalty .....	4-22

ARTICLE 4.05 FLOOD DAMAGE PREVENTION ..... 4-22

- Sec. 4.05.001 Statutory authorization, findings of fact, purpose and methods ..... 4-22
- Sec. 4.05.003 General provisions ..... 4-29
- Sec. 4.05.004 Administration ..... 4-30
- Sec. 4.05.005 Provisions for flood hazard reduction; penalty ..... 4-34

ARTICLE 4.06 SIGNS ..... 4-38

- Division 1. Generally ..... 4-38
  - Sec. 4.06.001 Definitions ..... 4-38
  - Sec. 4.06.002 Penalty ..... 4-42
  - Sec. 4.06.003 Appendices ..... 4-42
- Division 2. Administration ..... 4-42
  - Sec. 4.06.031 Responsibility for enforcement ..... 4-42
  - Sec. 4.06.032 Sign permit required ..... 4-42
  - Sec. 4.06.033 Application for permit ..... 4-42
  - Sec. 4.06.034 Fees ..... 4-43
  - Sec. 4.06.035 Conditional sign permit ..... 4-43
  - Sec. 4.06.036 Revocation of permit ..... 4-43
  - Sec. 4.06.037 Inspection ..... 4-44
  - Sec. 4.06.038 Expiration of permit ..... 4-44
  - Sec. 4.06.039 Investigation of work done without permit ..... 4-44
  - Sec. 4.06.040 Removal of signs ..... 4-44
  - Sec. 4.06.041 Filing of lien against property ..... 4-46
- Division 3. Appeals and Variances ..... 4-46
  - Sec. 4.06.071 Appeals ..... 4-46
  - Sec. 4.06.072 Variances ..... 4-46
- Division 4. General Sign Regulations ..... 4-47
  - Sec. 4.06.101 Wind pressure and dead load requirements ..... 4-47
  - Sec. 4.06.102 Permitted sign structures and general regulations ..... 4-47
  - Sec. 4.06.103 Prohibited signs ..... 4-49
- Division 5. Specific Sign Regulations ..... 4-50
  - Sec. 4.06.131 Applicability ..... 4-50
  - Sec. 4.06.132 Permanent signs requiring permit ..... 4-51
  - Sec. 4.06.133 Permanent signs exempt from permit ..... 4-53
  - Sec. 4.06.134 Temporary signs requiring permit ..... 4-54
  - Sec. 4.06.135 Temporary signs exempt from permit ..... 4-55
  - Sec. 4.06.136 Temporary off-premise real estate signs ..... 4-56
- Division 6. Exemptions and Special Conditions ..... 4-57
  - Sec. 4.06.171 Exempt signs ..... 4-57
  - Sec. 4.06.172 Nonconforming existing signs ..... 4-58
  - Sec. 4.06.173 Noncommercial sign copy ..... 4-58

ARTICLE 4.07 SWIMMING POOLS AND SPAS ..... 4-58

- Sec. 4.07.001 Applicability ..... 4-58
- Sec. 4.07.002 Permit ..... 4-58
- Sec. 4.07.003 Site requirements; general standards ..... 4-59

Sec. 4.07.004 Fencing..... 4-59

Sec. 4.07.005 Energy conservation, mechanical and electrical requirements..... 4-60

Sec. 4.07.006 Inspections..... 4-60

Sec. 4.07.007 Offenses; penalty..... 4-61

Sec. 4.07.008 Notice of violation; correction by city; lien for city’s costs ..... 4-61

ARTICLE 4.08 EXCAVATIONS AND SITE PREPARATION ..... 4-62

Sec. 4.08.001 Permit required ..... 4-62

Sec. 4.08.002 Regulations..... 4-62

Sec. 4.08.003 Application for permit..... 4-63

Sec. 4.08.004 Permit fee established..... 4-63

Sec. 4.08.005 Penalty..... 4-63

Sec. 4.08.006 Time limits ..... 4-63

Sec. 4.08.007 Refund of fees ..... 4-64

ARTICLE 4.09 INSTALLATION OF UTILITY LINES, PIPELINES  
AND TELECOMMUNICATION TRANSMISSION PATHS ..... 4-64

Sec. 4.09.001 Applicability..... 4-64

Sec. 4.09.002 Construction permit..... 4-64

Sec. 4.09.003 Construction standards; permit fee..... 4-66

Sec. 4.09.004 Conformance with public improvements ..... 4-68

Sec. 4.09.005 Improperly installed or maintained facilities..... 4-68

Sec. 4.09.006 Restoration of property..... 4-69

Sec. 4.09.007 Revocation or denial of permit..... 4-69

Sec. 4.09.008 Appeals..... 4-69

[Next page is 4-7.]



**ARTICLE 4.01 GENERAL PROVISIONS**

**Sec. 4.01.001 Building permits**

(a) Required. The city requires that any building that is site built or moved in or manufactured housing set up and installed on private land or within a subdivision must have the building permit before any work begins and before electricity will be turned on.

(b) Noncompliance; fees; penalty.

- (1) Failure to comply with this section will result in no electric service, possible fines, and/or eviction from the building until this section has been met to the fullest.
- (2) Fees are as set forth in the fee schedule in appendix A of this code.
- (3) The fine for failure to comply shall be \$50.00, and \$50.00 per day after the third day of noncompliance.

(c) Time allowed to complete construction; continuance.

- (1) Any and/or all new construction of or moving of any building into the city limits, or remodeling of any building within the city limits, must be completed within one calendar year from the date the building permit was obtained from the city.
- (2) If the new construction of or moving of any building into the city limits or remodeling of any building within the city limits is not complete within one calendar year of the date the building permit was obtained from the city, then the owner must obtain a continuance from the city council.
- (3) In granting a continuance, the city council may require that a new building permit be obtained at the fee schedule that is in place at the time the continuance is granted.
- (4) If construction continues without a continuance being granted, the fine for failure to comply shall be \$50.00, and \$50.00 per day after the third day of noncompliance.

(Ordinance 1999-014-0041 adopted 6/2/99; Ordinance 1999-23-0050, sec. II, adopted 8/30/99; Ordinance adopting Code)

**Sec. 4.01.002 Pre-occupancy inspection**

(a) The city requires any home that is site built or manufactured housing set up and installed on private land or within a subdivision must have the occupancy inspection before electric service can be turned on. All systems must be inspected at the same time.

(b) Failure to comply with this section will result in no electric service, possible fines, and/or eviction from the home until this section has been met to the fullest. The fee for the inspection is as set forth in the fee schedule in appendix A of this code. If the system does not pass inspection, such person will be required to pay the inspection fee for each trip made to the home site, until the city inspector is satisfied such person is in compliance with the city and county codes.

(Ordinance 1997-02-0008 adopted 7/31/97; Ordinance adopting Code)

**Sec. 4.01.003      Covering or fencing of holes, ditches and excavations**

(a) Holes, ditches, or excavations that are dug on a particular day within the corporate city limits shall be covered/barricaded or fenced on the same day they are dug.

(b) Holes, ditches, or any excavation that is dug on a particular day must be covered/barricaded or safety fencing put up at the end of the work day and if a contractor fails to do that the fine will be \$100.00 a day and \$200.00 each day after that this is not taken care of.

(Ordinance 2001-05-0077 adopted 5/7/01)

**ARTICLE 4.02 BUILDING AND CONSTRUCTION CODES AND STANDARDS\***

**Sec. 4.02.001      Codes adopted**

The 2015 editions of the International Building Code, the International Fire Code, the International Mechanical Code, the International Plumbing Code, the International Residential Code, the International Fuel Gas Code, the International Property Maintenance Code and the 2017 edition of NFPA 70 - National Electrical Code save and except the amendments set forth in exhibit “A,” attached to the ordinance from which this section derives and incorporated herein, are adopted as the construction and technical codes for the city. A copy of each code with amendments is on file in the office of the city secretary. (Ordinance adopted 8/3/20, sec. 2)

**Sec. 4.02.002      Violations; penalty**

Any person, firm or corporation violating any of the provisions or terms of this article shall be subject to a fine in the amount up to two thousand dollars (\$2,000.00). Each and every violation or day such violation continues or exists shall be deemed a separate offense. The provisions of this article can also be enforced by injunction, suit, civil action, and civil penalty for any violation as authorized by law. (Ordinance adopted 8/3/20, sec. 3)

**ARTICLE 4.03 SUBSTANDARD BUILDINGS†**

**Sec. 4.03.001      Purpose**

These regulations are enacted pursuant to the authority granted by chapter 214, Texas Local Government Code and are intended to establish minimum standards for the continued use and

---

\* **State law references**—International Residential Code adopted as municipal residential building code, V.T.C.A., Local Government Code, sec. 214.212; National Electrical Code adopted as municipal residential electrical code, V.T.C.A., Local Government Code, sec. 214.214; 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; adoption of building energy efficiency performance standards, V.T.C.A., Health and Safety Code, sec. 388.003; Plumbing License Law, V.T.C.A., Occupations Code, ch. 1301; Texas Electrical Safety and Licensing Act, V.T.C.A., Occupations Code, ch. 1305.

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



occupancy of all buildings regardless of the date of their construction by limiting the definition of substandard and dilapidated buildings to those with specified defects. (Ordinance 2004-05-0100, sec. I, adopted 1/11/05)

**Sec. 4.03.002 Building standards**

(a) Generally. Any building or portion thereof which is determined to be an unsafe building in accordance with the building code, or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in this section to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby are declared to be substandard buildings.

(b) Inadequate sanitation. Buildings or portions thereof shall be deemed substandard when they are unsanitary. Inadequate sanitation shall include but not limited to the following:

- (1) Lack of or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodging house.
- (2) Lack of or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel.
- (3) Lack of or improper kitchen sink in a dwelling unit.
- (4) Lack of hot and cold running water to plumbing fixtures in a hotel.
- (5) Lack of hot or cold running water to plumbing fixtures in a dwelling unit or apartment complex required by other city codes.
- (6) Lack of adequate heating facilities.
- (7) Lack of or improper operation of required ventilating equipment.
- (8) Lack of minimum amounts of natural light and ventilation required by city codes.
- (9) Room and space dimensions less than required by city codes.
- (10) Lack of required electrical lighting.
- (11) Dampness of habitable rooms.
- (12) Infestation by insects, vermin or rodents as determined by the health officer.
- (13) General dilapidation or improper maintenance.
- (14) Lack of connection to required sewage disposal system.
- (15) Lack of adequate garbage and rubbish storage and removal facilities.
- (16) Partial destruction or damage by fire unrepaired for more than ninety (90) days.

(c) Structural hazards. Buildings or portions thereof shall be deemed substandard when they are or contain structural hazards. Structural hazards shall include but not be limited to the following:

- (1) Deteriorated or inadequate foundation.
- (2) Defective or deteriorated flooring or floor supports.
- (3) Flooring or floor supports of insufficient size to carry imposed loads with safety.
- (4) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
- (5) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
- (6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split or buckle due to defective material or deterioration.
- (7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
- (8) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration.
- (9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
- (10) Heating flues and exhausts which list, bulge or settle due to defective material or deterioration.

(d) Nuisances. Buildings or portions thereof in which there exists any nuisance as defined by ordinance are deemed substandard buildings.

(e) Hazardous electrical wiring. Electrical wiring that was installed in violation of code requirements in effect at the time of installation or electrical wiring not installed in accordance with generally accepted construction practices in areas where no codes were in effect or which has not been maintained in good condition or which is not being used in a safe manner shall be considered substandard.

(f) Hazardous plumbing. Plumbing which was installed in violation of code requirements in effect at the time of installation, or plumbing not installed in accordance with generally accepted construction practices in areas where no codes were in effect or which has not been maintained in good condition or which is not free of cross-connections or siphonage between fixtures, shall be considered substandard.

(g) Hazardous mechanical equipment. Mechanical equipment which was installed in violation of code requirements in effect at the time of installation, or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no codes were in effect or which has not been maintained in good and safe condition, shall be considered substandard.

(h) Faulty weather protection. Buildings or portions thereof shall be considered substandard when they have faulty weather protection, which shall include but not be limited to the following:

- (1) Deteriorated, crumbling or loose plaster.
- (2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
- (3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
- (4) Broken, rotted, missing, split or buckled exterior walls or wall coverings or roof coverings.

(i) Fire hazards. Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the chief of the fire department or the fire marshal, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause shall be considered a substandard building.

(j) Faulty materials of construction. The use of materials of construction except those which are specifically allowed or approved by the International Building Code and which have been adequately maintained in good and safe condition shall cause a building to be substandard.

(k) Hazardous or insanitary premises. The accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, rat harborage, stagnant water, combustible materials and similar materials or conditions on a premises constitutes a nuisance to be abated as provided by this article.

(l) Inadequate exits.

- (1) Except for those buildings or portions thereof which have been provided with adequate exit facilities conforming to the provisions of this code, buildings or portions thereof whose exit facilities were installed in violation of code requirements in effect at the time of their construction or whose exit facilities have not been increased in number or width in relation to any increase in occupant load due to alterations, additions or change in use or occupancy subsequent to the time of construction shall be considered substandard.
- (2) Notwithstanding compliance with code requirements in effect at the time of their construction, buildings or portions thereof shall be considered substandard when the building official finds that an unsafe condition exists through an improper location of exits, a lack of an adequate number or width of exits, or when other conditions exist which are dangerous to human life.

(m) Inadequate fire protection or firefighting equipment. Buildings or portions thereof shall be considered substandard when they are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by the codes of the city, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and

whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) Improper occupancy. All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies shall be considered substandard.

(Ordinance 2004-05-0100, sec. II, adopted 1/11/05)

**Sec. 4.03.003      Procedures**

(a) Commencement of proceedings. Whenever the building official has inspected or caused to be inspected any building and has found and determined that such building is:

- (1) Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare;
- (2) 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
- (3) 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 in the manner described by subsection (2);

the building official shall commence proceedings to cause the repair, rehabilitation, vacation, removal or demolition of the building.

(b) Notice requirements. The building official shall issue a notice directed to the record owner of the building. The notice shall contain:

- (1) The street address and description (legal or other) sufficient for identification of the premises upon which the building is located;
- (2) A statement that the building official has found the building to be substandard with a brief and concise description of the conditions found to render the building dangerous;
- (3) A statement of the action required to be taken as determined by the building official;
- (4) A requirement that the owner or person in charge of the building or premises secure required permits and commence the required action within fifteen (15) days from the date of such notice and that all work be completed within such time as the building official shall determine is reasonable;

- (5) If the building official has determined that the building or structure must be vacated, the notice shall contain a requirement that the building be vacated within such time from the date of the notice as determined by him to be reasonable;
  - (6) A statement advising that, if any required repair or demolition work is not commenced within the time specified, the building official will, without further notice, order the building vacated and posted to prevent further occupancy until the work is completed;
  - (7) A statement advising that, if any required repair or demolition work is not commenced or completed within the time specified, proceedings will be commenced to have the building repaired, removed or demolished and the cost of such assessed as a charge against the land.
- (c) Service of notice. The notice and any amended notice shall be served upon the record owner.
- (d) Method of service. Service of notice shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last tax roll of the city, or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy the notice and order shall be published twice within ten (10) consecutive days in a newspaper of general circulation in the city. Failure to receive such notice or order shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner provided in this section shall be deemed effective on the date of mailing. Service by publication shall be deemed effective on the date of the second publication.
- (e) Order to vacate. An order to vacate immediately may be issued only if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or of the occupants.
- (f) Posting of notice to vacate. Every notice to vacate shall, in addition to being served as provided in subsection (d), be posted at or upon each exit of the building, and shall be in substantially the following form:

DO NOT ENTER  
UNSAFE TO OCCUPY

It is a Misdemeanor to occupy this Building or to Remove or Deface this Notice

Building Official  
City of New Fairview, Texas

(Ordinance 2004-05-0100, sec. III, adopted 1/11/05)

**Sec. 4.03.004     Violations**

No person shall remain in or enter any building which has been posted as provided by section 4.03.003, except that the entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued

pursuant to the provisions of the building code. Any person violating this section shall be guilty of a class C misdemeanor, and any person who fails to meet the requirements made in any notice duly served as provided in this article shall be guilty of a misdemeanor for each day such failure continues after the date the notice requires compliance. (Ordinance 2004-05-0100, sec. IV, adopted 1/11/05)

**Sec. 4.03.005 Repair or demolition by city**

(a) If the required repair or demolition has not been commenced within fifteen (15) days from the date of any notice served pursuant to this article, or if required action has not been completed as required by such notice, the building official shall commence proceedings as follows:

- (1) The building official shall cause such building to be vacated by posting at each entrance thereto a notice reading:

SUBSTANDARD BUILDING

It is a Misdemeanor to occupy this Building or to Remove or Deface this Notice

Building Official  
City of New Fairview, Texas

- (2) The city council shall be notified and requested to consider holding a public hearing to decide whether to order the repair, removal or demolition specified in such notice to be done and whether to cause the cost of such work to be paid and levied as a special assessment against the property.
- (3) The city council may set a date and time for a public hearing to consider ordering the improvement and assessment of any property the owner has failed to improve as required by notices described in this article. Such public hearing shall be held not less than fifteen (15) and no more than sixty (60) days from the date such hearing is set.
- (4) A title search shall be conducted to discover each owner, mortgagee and lienholder and notice of the public hearing to be held before the city council shall be given by causing a notice thereof to be served on the owner of such property and upon each mortgagee and lienholder having an interest in the building or in the property on which the building is located. A diligent search shall be made by searching the following records:
  - (A) County real property records;
  - (B) Appraisal district records;
  - (C) Records of the secretary of state;
  - (D) Assumed name records of Wise County;
  - (E) Tax records of the city; and
  - (F) Utility records of the city.

- (5) Such notice shall be mailed to such owner, mortgagee and lienholder by certified mail, return receipt requested. The notice shall include the date, time and place of such hearing and shall state that the owner, lienholder or mortgagee will be required to submit proof of the scope of any work that may be required to comply with this article and the time it will take to be reasonably perform the work, together with:
  - (A) An identification, which is not required to be a legal description, of the building and the property on which it is located;
  - (B) A description of the violation of city standards that is present at the building; and
  - (C) A statement that the city will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.
  
- (b) The city secretary shall, at the time notices are mailed, file a notice of the hearing in the county clerk's office, stating the name and address of the owner, if such can be determined, a legal description of the land, and stating the purpose, time and place of the hearing.
  
- (c) After conducting a hearing authorized under this section, if the council finds that the allegations are true, the council shall require the owner, lienholder, or mortgagee of the building to, within thirty (30) days:
  - (1) Secure the building from unauthorized entry; or
  - (2) Repair, remove, or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within (30) days.
  
- (d) If the council allows the owner, lienholder, or mortgagee more than thirty (30) days to repair, remove, or demolish the building, the council shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the council.
  
- (e) The owner, lienholder, or mortgagee shall not be allowed more than ninety (90) days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:
  - (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.
  
- (f) If the council allows the owner, lienholder, or mortgagee more than ninety (90) days to complete any part of the work required to repair, remove, or demolish the building, the owner, lienholder or mortgagee shall be required to regularly submit progress reports to the city to demonstrate that the owner, lienholder, or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the council or its designee to demonstrate compliance with the time schedules.

(g) In a public hearing to determine whether a building complies with the standards set out in this article, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work. The council shall specify a reasonable time for the building to be vacated, secured, repaired, removed or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time for the ordered action to be taken by the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner.

(h) The council's requirement shall be reduced to writing and shall be considered an order. Within ten (10) days after the date that the order is issued, the city secretary 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; and
  - (D) Instructions stating where a complete copy of the order may be obtained.

(i) After the hearing, the city secretary shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building, and if the owner does not take the ordered action within the allotted time, the municipality shall promptly mail by certified mail, return receipt requested, a copy of the order to any lienholder or mortgagee of the building.

(Ordinance 2004-05-0100, sec. V, adopted 1/11/05)

#### **Sec. 4.03.006 Performance of work by city; lien for city's expenses**

(a) Procedure. If the building is not vacated, secured, repaired, removed or the occupants are not relocated within the allotted time pursuant to the provisions of the order of the city council, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot shall be cleaned. The building materials may be sold if removal is ordered, and the proceeds shall be used to offset other costs of cleaning the lot.

(b) Costs. The cost of such work shall be paid from the city funds and shall constitute a special assessment and a lien against such property to secure its payment from the date the lien is recorded in the county clerk's office. Such liens shall be privileged as provided by law. The city attorney may bring an action in any court of proper jurisdiction to foreclose the lien and to recover the costs incurred by the city.

(Ordinance 2004-05-0100, sec. VI, adopted 1/11/05)



**Sec. 4.03.007 Notice of lien**

A sworn account of the expense incurred by the city in the repair, removal or demolition of any building, done pursuant to the provisions of this article, shall be filed by the building official with the city secretary. The city secretary shall file such notice of the city’s assessment and lien in the records of the county clerk. Such notices shall read substantially as follows:

STATE OF TEXAS  
COUNTY OF WISE

NOTICE OF LIEN

\_\_\_\_\_, Building Official for the City of New Fairview, makes oath and says that the City of New Fairview has incurred an expense of \$\_\_\_\_\_ in improving property, the legal description of which is \_\_\_\_\_. Such expense was incurred to repair, remove or demolish substandard buildings after notice pursuant to ordinance and to chapter 214, Texas Local Government Code, was served on the record owner thereof, \_\_\_\_\_ whose address is \_\_\_\_\_.

\_\_\_\_\_  
Building Official  
New Fairview, Texas

SWORN TO AND SUBSCRIBED before me by the said \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

(Ordinance 2004-05-0100, sec. VII, adopted 1/11/05)

**Sec. 4.03.008 Discharge of lien**

No utility service, building permit or certificate of occupancy shall be allowed for any such property until any lien imposed is discharged. (Ordinance 2004-05-0100, sec. VIII, adopted 1/11/05)

**ARTICLE 4.04 RENTAL PROPERTY REGISTRATION AND INSPECTION**

**Sec. 4.04.001 Purpose**

The city recognizes a need for an organized inspection program of residential rental units within the city in order to upgrade rental units to meet city and state life safety, health, fire and zoning codes within the city and to provide a more efficient system for compelling both absentee and local landlords to correct violations and to maintain, in proper condition, rental property within the city. The city recognizes that the most efficient system to provide for rental inspections is the creation of a program requiring the registration of all residential rental units within the city so that orderly inspection schedules can be made by city officials. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.002 Definitions**

As used in this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Boarding house, rooming house, lodging house or tourist house means a building arranged or used for the lodging, with or without meals, for compensation, by individuals who are not members of the family.

Dormitory means a space in a building where sleeping accommodations are provided for more than one person not members of the same family group, in one room.

Dwelling unit means a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Hotel means a room or rooms in any building or structure kept, used, maintained, advertised or held out to the public to be an inn, motel, hotel, apartment hotel, lodging house, boarding house, rooming house, tourist house, dormitory or place, where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals.

Multi-family dwelling means a building or portion thereof containing more than two dwelling units.

Person means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, or receiver, executor, trustee, conservator or other representative appointed by order of any court.

Permanent resident means any person who occupies or has the right to occupy any room or rooms in a hotel or motel for at least thirty (30) consecutive days.

Premises means a lot, plot or parcel of land including the buildings or structures thereon.

Rental property means a single-family dwelling, two-family dwelling, multi-family dwelling, dormitory, boarding house, lodging house, tourist house, rooming unit or combination of any such dwelling units as defined herein.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Single-family dwelling means a building containing one dwelling unit.

Two-family dwelling (duplex) means a building containing two dwelling units.

(Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.003 Registration**

(a) Registration requirements. No person shall hereafter occupy, allow to be occupied or let to another person for occupancy any residential rental property within the city for which a

registration statement has not been properly made and filed with the building inspection department of the city. Registration shall be made upon forms furnished by the city for such purpose and shall specifically require the following minimum information:

- (1) Name, address and phone number of the property owner.
- (2) Name, address and phone number of the designated local property manager if the property owner lives outside the metropolitan area.
- (3) The street address of the rental property.
- (4) The number and types of units within the rental property (dwelling units or sleeping rooms).
- (5) The maximum number of occupants permitted for each dwelling unit or sleeping room.
- (6) The name, phone number and address of the person authorized to make or order made repairs or services for the property, if in violation of city or state codes, if the person is different than the owner or local manager.

(b) Manner of registering. The registration must be made on or before June 1, 2007 and annually thereafter by the property owner or designated local property manager in the office of the city secretary.

(c) Transfer of property. Every new owner of rental property (whether as fee owner or contract purchaser) shall be required to furnish to the building inspection department the new owner's name, address and phone number and the name, address and phone number of the owner's designated local manager before taking possession of the rental property. No registration fee shall be required of the new owner during the year in which possession takes place provided that the previous owner has paid all registration fees and has complied with all requirements of this article and any notices from the city concerning violations of health, zoning, fire or safety codes of the city. If any change in the type of occupancy as originally registered is contemplated by the new owner, a new registration statement will be required.

(Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

#### **Sec. 4.04.004 Inspection required**

(a) All dwellings, boarding houses, rooming houses, lodging houses, and/or tourist houses that rent to permanent residents and dormitories shall be inspected systematically for compliance with this article and all other applicable laws.

(b) The provisions of this section shall not apply to:

- (1) Dwellings, buildings, structures and uses owned and operated by any governmental agency;
- (2) Dwellings, buildings, structures and uses licensed and inspected by the state;
- (3) Hotels that do not rent to permanent residents;

- (4) Where a nonresidential business or activity, or a state licensed and inspected use, occupies a portion of a building and premises which would be otherwise subject to this article, the provisions of this article shall be applicable to the residential and common or public areas of such building and premises.

(Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.005 Frequency of inspections**

(a) All rental dwellings subject to this article shall be inspected at least once every two (2) years or upon change of occupancy.

(b) Neither the common areas nor the dwelling or rooming units in structures newly constructed shall be further inspected after the completion and issuance of a certificate of occupancy for a period of three (3) years from the date of said certificate, unless a complaint is made thereof. Thereafter said areas and units shall be inspected in accordance with the requirements of this article.

(Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.006 Certificate of occupancy required**

No person shall rent, let or let for occupancy any dwelling subject to this article without having a valid, current certificate of occupancy for that dwelling. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.007 Inspection procedure; notice of violation; correction of violations**

(a) If, upon completion of the biennial inspection, the premises are found to be in compliance with all applicable city codes and ordinances and the appropriate fee has been paid, the city shall issue a certificate of occupancy for the premises.

(b) If, upon completion of the inspection, the premises are found to be in violation of one or more provisions of applicable city codes and ordinances, the city shall provide written notice of such violation and shall set a reinspection date before which such violation shall be corrected. If such violation has been corrected within that period, the city shall issue a certificate of occupancy for the premises. If such violations have not been corrected within that period, the city shall not issue the certificate of occupancy and may take any action necessary to enforce compliance with applicable city codes and ordinances. If such uncorrected violations do not pose an immediate threat to the health, safety, and welfare of the occupants, the city administrator or designee may authorize the occupancy of the premises for a period not to exceed ninety (90) days.

(Ordinance 2007-07-122, sec. 1, adopted 5/15/07; Ordinance adopting Code)

**Sec. 4.04.008 Request for inspection**

The owner of any dwelling subject to this article may request inspections of said dwelling at any time. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.009 Expiration of certificate of occupancy**

(a) The certificates of occupancy issued pursuant to this article shall expire two (2) years from the date of the biennial inspection.

(b) The certificate of occupancy shall have the expiration date prominently displayed on its face.

(Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.010 Transfer of certificate of occupancy**

A certificate of occupancy issued pursuant to this article shall be transferable to succeeding owners; provided that, within five (5) days of the transfer, the transferor shall provide written notice of said transfer to the city administrator or designee. Such notice shall contain the name and address of the succeeding owners. The failure to provide such notice may result in the suspension or revocation of the certificate of occupancy. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07; Ordinance adopting Code)

**Sec. 4.04.011 Availability of certificate of occupancy**

Upon the request of an existing or prospective tenant, the owner or the owner’s agent shall produce the certificate of occupancy. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.012 Suspension or revocation of certificate of occupancy**

If the city administrator or designee, after a hearing before the city administrator or designee, determines that any person has failed to comply with this article or any applicable city code or ordinance, the city administrator may suspend or revoke the certificate of occupancy held by that person. Such a hearing shall be held not less than seven (7) calendar days after notice of the time, place, and subject of the hearing has been sent to the certificate holder at the holder’s last known address or business address. The city’s representative shall present evidence in support of the suspension or revocation, and the certificate holder shall be permitted to rebut such evidence and present any other evidence that is, in the discretion of the hearing officer, relevant and material. Based upon the evidence presented at the hearing, the hearing officer shall issue a written decision. The suspension or revocation of any certificate of occupancy shall not release or discharge the certificate holder from paying any fees due to the city, nor shall such certificate holder be released from prosecution for violating any code or ordinance. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07; Ordinance adopting Code)

**Sec. 4.04.013 Records**

All records, files, and documents pertaining to this article shall be maintained by the building inspection department and made available to the public as allowed or required by state law or city ordinance. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.014 Exemptions**

The provisions of this article shall not apply to hospital units, nursing units or retirement home units licensed by the state located within the city, all of which shall be specifically exempt from registration under this article. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.015 Fees**

A fee schedule as established by resolution of the city shall be charged for compliance with this article. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.016 Violations declared nuisance; injunctive relief**

Any violation of this article is hereby declared to be a nuisance. In addition to any other relief provided by this article, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this article. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.017 Other remedies**

Nothing in this article shall prevent the city from taking action under any of its city fire, housing, zoning or other health or safety codes for violations thereof to seek injunctive relief or criminal prosecution of such violations in accordance with the terms and conditions of the particular ordinance or code under which the city would proceed against the property owner, designated property manager or occupant of any residential rental dwelling unit covered by this article. (Ordinance 2007-07-122, sec. 1, adopted 5/15/07)

**Sec. 4.04.018 Penalty**

Any person, firm, or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction in the municipal court of the city shall be punished by a fine in accordance with the general penalty provided in section 1.01.009 of this code for each offense. Every day a violation occurs shall constitute a separate offense. (Ordinance 2007-07-122, sec. 4, adopted 5/15/07; Ordinance adopting Code)

**ARTICLE 4.05 FLOOD DAMAGE PREVENTION\*****Sec. 4.05.001 Statutory authorization, findings of fact, purpose and methods**

(a) Statutory authorization. The legislature of the state has, in the Flood Control Insurance Act, Texas Water Code, section 16.315, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain as follows.

---

\* **State law references**—Flood Control and Insurance Act, V.T.C.A., Water Code, sec. 16.311 et seq.; governing body shall adopt ordinances or orders necessary to participate in National Flood Insurance Program, V.T.C.A., Water Code, sec. 16.3145; responsibility to establish flood hazard regulations, V.T.C.A., Water Code, sec. 16.315.

(b) Findings of fact.

- (1) The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(c) Statement of purpose. It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood-control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

(d) Methods of reducing flood losses. In order to accomplish its purposes, this article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;

- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ordinance 2010-08-1516, art. 1, adopted 10/19/10; Ordinance 202012-01-215, art. 1, adopted 12/14/20)

#### **Sec. 4.05.002 Definitions**

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the 1-percent annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a 1-percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a 1-percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Base flood means the flood having a 1-percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). The elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the base flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.



Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means, for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS). See “Flood elevation study.”

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood-control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See “Regulatory floodway.”

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (A) By an approved state program as determined by the Secretary of the Interior; or
  - (B) Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area. See “Area of special flood hazard.”

Start of construction. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) [of the National Flood Insurance Program regulations] is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ordinance 2010-08-1516, art. 2, adopted 10/19/10; Ordinance 202012-01-215, art. 2, adopted 12/14/20)

#### **Sec. 4.05.003      General provisions**

(a) Lands to which this article applies. This article shall apply to all areas of special flood hazard within the jurisdiction of the city.

(b) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Wise County, Texas and Incorporated Areas," dated December 16, 2011, with accompanying flood insurance rate maps (FIRM) dated December 16, 2011, and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

(c) Establishment of development permit. A floodplain development permit shall be required to ensure conformance with the provisions of this article.

(d) Compliance. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

(e) Abrogation and greater restrictions. This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(f) Interpretation. In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(g) Warning and disclaimer of liability. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of

special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ordinance 2010-08-1516, art. 3, adopted 10/19/10; Ordinance 202012-01-215, art. 3, adopted 12/14/20)

**Sec. 4.05.004 Administration**

(a) Designation of the floodplain administrator. The city engineer is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

(b) Duties and responsibilities of the floodplain administrator. Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) Review permit applications to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this article.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the floodplain administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with section 4.05.003(b), the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of section 4.05.005.

- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
  - (10) Under the provisions of 44 CFR chapter 1, section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, [and] AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community first completes all of the provisions required by section 65.12.
- (c) Permit procedures.
- (1) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
    - (A) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
    - (B) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
    - (C) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 4.05.005(b)(2);
    - (D) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
    - (E) Maintain a record of all such information in accordance with subsection (b)(1) of this section.
  - (2) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:
    - (A) The danger to life and property due to flooding or erosion damage;
    - (B) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
    - (C) The danger that materials may be swept onto other lands to the injury of others;

- (D) The compatibility of the proposed use with existing and anticipated development;
  - (E) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (F) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
  - (G) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  - (H) The necessity to the facility of a waterfront location, where applicable;
  - (I) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (d) Variance procedures.
- (1) The city council shall hear and render judgment on requests for variances from the requirements of this article.
  - (2) The city council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.
  - (3) Any person or persons aggrieved by the decision of the city council may appeal such decision in the courts of competent jurisdiction.
  - (4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
  - (5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this article.
  - (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection (c)(2) of this section have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
  - (7) Upon consideration of the factors noted above and the intent of this article, the city council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (section 4.05.001(c)).



- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (10) Prerequisites for granting variances:
  - (A) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (B) Variances shall only be issued upon:
    - (i) Showing a good and sufficient cause;
    - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (C) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - (A) The criteria outlined in subsections (d)(1) through (9) are met; and
  - (B) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ordinance 2010-08-1516, art. 4, adopted 10/19/10; Ordinance 202012-01-215, art. 4, adopted 12/14/20; Ordinance adopting Code)

**Sec. 4.05.005 Provisions for flood hazard reduction; penalty**

(a) General standards. In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(b) Specific standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 4.05.003(b), section 4.05.004(b)(8), or subsection (c)(3) of this section, the following provisions are required:

- (1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in section 4.05.004(c)(1)(A), is satisfied.
- (2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A

record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

- (3) Enclosures. New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - (A) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (B) The bottom of all openings shall be no higher than 1 foot above grade.
  - (C) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) Manufactured homes.
  - (A) Require that all manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - (B) Require that manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites: (i) outside of a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - (C) Require that manufactured homes being placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of subsection (4) of this section be elevated so that either:
    - (i) The lowest floor of the manufactured home is at or above the base flood elevation; or

- (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - (5) Recreational vehicles. Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of section 4.05.004(c)(1), and the elevation and anchoring requirements for "manufactured homes" in subsection (4). A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.
- (c) Standards for subdivision proposals.
- (1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with section 4.05.001(b), (c), and (d) of this article.
  - (2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of section 4.05.003(c) and section 4.05.004(c), and the provisions of this section.
  - (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to section 4.05.003(b) or section 4.05.004(b)(8) of this article.
  - (4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
  - (5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (d) Standards for areas of shallow flooding (AO/AH zones). Located within the areas of special flood hazard established in section 4.05.003(b), are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

- (2) All new construction and substantial improvements of nonresidential structures:
    - (A) Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified); or
    - (B) Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
  - (3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this subsection, as proposed in section 4.05.004(c) are satisfied.
  - (4) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
- (e) Floodways. Located within areas of special flood hazard established in section 4.05.003(b) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development, within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - (2) If subsection (e)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.
  - (3) Under the provisions of 44 CFR, chapter 1, section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by section 65.12.
- (f) Penalties for noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this article or fails to

comply with any of its requirements shall upon conviction thereof be fined in accordance with the general penalty provided in section 1.01.009 of this code for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent city council from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ordinance 2010-08-1516, art. 5, adopted 10/19/10; Ordinance 202012-01-215, art. 5, adopted 12/14/20; Ordinance adopting Code)

## ARTICLE 4.06 SIGNS\*

### Division 1. Generally

#### Sec. 4.06.001 Definitions

*Alter.* To change the size, shape or outline, or type of sign or to change the electrical lighting, except for the replacement of lamps not brighter than the original or the replacement of a surface panel.

*Attach.* To stick, tack, nail or otherwise affix a sign to any object; to paint, stencil, write, or otherwise mark on an object.

*Building.* A structure which has a roof supported by walls for the shelter, support, or enclosure of persons, animals, or chattel.

*Civic organization.* An organization which offers community programs to citizen, city or civil affairs groups.

*Code enforcement.* The code enforcement [officer] of the city, or his designee.

*Commencement of work.* For construction of a sign shall be the point in time when the sign has been delivered to the site and attachment to a building has begun or holes are excavated for ground installation.

*Dilapidated or deteriorated condition.* Any sign which in the opinion of the building official has any of the following characteristics:

- (1) Where elements of the surface or background can be seen, as viewed from the normal viewing distance, to have portions of the finished material or paint flaked, broken off, or missing, or otherwise not in harmony with the rest of the surface;
- (2) Where the structural support or frame members are visibly bent, broken, dented, or torn;
- (3) Where the panel is visibly cracked, or in the case of wood and similar products, splintered in such a way as to constitute an unsightly or harmful condition;

---

\* **State law reference**—Authority of municipality to regulate signs, V.T.C.A., Local Government Code, ch. 216.

- (4) Where the sign or its elements are twisted or leaning or at angles other than those at which it was originally erected (such as may result from being blown or the failure of a structural support); or
- (5) Where the message or wording can no longer be clearly read by a person with normal eyesight under normal viewing conditions.

*Distance.* Distance of signs from R.O.W. shall mean the shortest horizontal distance from the nearest R.O.W. to a vertical line to the ground from the nearest element of the sign or the shortest horizontal distance in a straight line between the nearest elements of signs.

*Erect.* To build, construct, attach, hang, place, suspend or affix. This shall also include the painting of signs on the exterior surface of a building or structure.

*Facade.* Any separate face of a building, including parapet walls and omitted wall lines, or any part of a building which encloses or covers usable space. Where separate faces are oriented in the same direction, or in the directions within 45 degrees of one another, they are to be considered as part of a single facade.

*Height.* As applied to a sign, height shall be measured as the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and natural grade at the center of the base of the sign.

*Illumination.* The enhancement of a sign utilizing electric lights, luminous tubes or other similar means.

*Lease space.* An area of a building separated internally and intended for use by an individual tenant.

*Logo.* Any registered trademark of an organization, individual, company, or product which is commonly used in advertising to identify that organization, individual, company, or product.

*Obsolete.* Any sign which advertises a business, use or purpose that is no longer in existence.

*Pad site.* A tract, lot, or land lease intended for the single use of a freestanding building typically adjacent to street R.O.W. and may also be a portion of a tract or lot.

*Public property.* Any property which is owned by a governmental entity. It shall also include property for which the primary use is for the operations of a governmental entity.

*Sculpted aluminum panel.* An aluminum sign panel with text or graphic depictions cut out from the panel, typically with a translucent material covering the cut-out from the inner side of the panel.

*Setback.* The distance from the closest portion, whether the support or edge of the sign, to the right-of-way.

*Sign.* Every sign, name, number, identification, description, and announcement, declaration, demonstration, device, display, flag, banner, pennant, illustration, logo, balloon, streamer, valance, advertising display, poster, beacon, light or insignia, and structure supporting any of the

same, affixed directly or indirectly to or upon any building or outdoor structure, or erected or maintained upon a piece of land, which directs attention to any object, project, service, place, activity, person, institution, organization, or business.

Sign, attached. Any sign attached to, applied on, or supported by any part of a building (including canopy fascia, walls and awnings) which encloses or covers usable space.

Sign, banner. A temporary sign made of cloth, flexible plastic or canvas material.

Sign, builder. A temporary on-site sign identifying the builder or general contractor of a residential construction site.

Sign, bulletin board. A permanent on-site sign providing public information to the residential subdivision within which it is located.

Sign, business. A permanent on-site sign that is used to identify a business, profession, organization, institution, service, activity or other nonresidential use conducted, sold or offered on the site where such sign is located. This sign may also identify the name of the site or development or may identify the occupants within the site or development.

Sign, development. A temporary on-site sign providing identification or information pertaining to a residential or commercial development to include the builder, property owner, architect, contractor, engineer, landscape architect, decorator, or mortgagee, within that development, but shall not include a subdivision marketing sign.

Sign, directional. A permanent on-site sign intended to aid in vehicular movement on the site.

Sign, directory. A permanent on-site sign providing direction to or identifying the buildings in the development.

Sign face. The surface of one side of a sign. For a monument sign, the sign face shall include the sign structure (excluding base).

Sign, garage/yard sale. A temporary sign intended to advertise garage sales or yard sales.

Sign, government. A sign erected by or on behalf of a federal, state or local government or an agency thereof.

Sign, ground. Any sign connected to the ground by legs, poles, or other supports and which is not an attached, portable, monument, or vehicular sign.

Sign, institutional. A permanent on-site sign used to identify governmental and municipal agencies, public schools, churches, or similar public institutions, and used to communicate messages of public importance to the general public.

Sign, menuboard. A permanent on-site sign which displays a menu and pricing for food services and may include an audible speaker and microphone integral to the sign.

Sign, model home. A temporary real estate sign identifying a homebuilder's model home open for inspection.



Sign, monument. Any sign which is connected to the ground and which has no clear space for the full width of the sign between the bottom of the sign and the surface of the ground.

Sign, off-site. A sign which directs attention to a business, commodity, service, good, product, or entertainment not related to the site upon which such sign is located or to which it is affixed.

Sign, on-site. Any sign, the content of which relates to the site on which it is located, referring exclusively to businesses, commodities, services, products, goods, or entertainment on the site, or the sale, lease, or construction of those sites.

Sign, political. A type of off-site sign which refers only to the candidates or issues involved in a political election.

Sign, portable. Any sign which is not attached or affixed to the ground, a building, vehicle, or other fixed structure or object. Portable signs include those signs installed on wheels, trailers, skids, and similar mobile structures.

Sign, readerboard (electronic). A sign that utilizes alternating electronic data control components.

Sign, readerboard (manual). A sign comprised of non-permanent letters, numerals or symbols, which allows a change of sign copy by adding, removing or rearranging said letters, symbols or numerals.

Sign, real estate. A temporary sign intended to advertise real estate for sale or lease.

Sign, special purpose. A temporary sign that is either on-site or off-site that provides identification or information pertaining to a special event or occurrence sponsored by a nonprofit or civic organization.

Sign, subdivision entry. Any permanent on-site sign identifying a residential subdivision.

Sign, subdivision marketing. A temporary sign used to market or advertise residential subdivisions within the city and to direct interested persons to the subdivision location.

Sign, temporary. Any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, or other like materials, with or without frames, and any type sign not permanently attached to the ground, wall, or building, intended to be displayed for a short period of time only.

Sign, vehicular. Any sign which is affixed to a vehicle.

Sign, window. Any sign located on the internal and/or external surface of the window, or located within two feet (2') of the window, of any establishment.

Site. A lot, tract or pad site.

(Ordinance 2006-03-110, sec. 1(1), adopted 2/9/06; Ordinance adopting Code)

**Sec. 4.06.002 Penalty**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this article shall be fined in accordance with the general penalty provided in section 1.01.009 of this code for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. (Ordinance 2006-03-110, sec. 4, adopted 2/9/06; Ordinance adopting Code)

**Sec. 4.06.003 Appendices**

It is anticipated that the code enforcement officer in will change the following appendices periodically in response to changes in the administration of this article. (Ordinance 2006-03-110, sec. 1(26), adopted 2/9/06)

**Editor’s note**—Appendices A and B referred to in this article are not printed herein.

**Secs. 4.06.004–4.06.030 Reserved**

**Division 2. Administration**

**Sec. 4.06.031 Responsibility for enforcement**

It is the responsibility of the code enforcement officer to interpret, administer and enforce the requirements of this article. (Ordinance 2006-03-110, sec. 1(2), adopted 2/9/06)

**Sec. 4.06.032 Sign permit required**

No person shall erect, alter or display any sign nor shall any person allow the erection, alteration or display of any sign upon any property within the city owned or controlled by him without first obtaining a permit to do so from the city, except as hereinafter provided. No sign permit shall be released until after the building permit for the principal building on the site has been issued, except as hereinafter provided. (Ordinance 2006-03-110, sec. 1(3), adopted 2/9/06)

**Sec. 4.06.033 Application for permit**

Application for a permit shall be made as required by this article and the following information shall be submitted as separate documents:

- (1) An application form shall be completed.
- (2) A general plan that illustrates:
  - (A) Location of the building, structure, or tract to which or upon which the sign is to be attached or erected.
  - (B) Position of the sign in relation to rights-of-way, easements, buildings, structures, existing signs, etc.
- (3) Sign drawing that illustrates height, length, width, and all other dimensions associated with the sign.

- (4) A letter from the owner of the property stating that the applicant has permission to erect such signs.

(Ordinance 2006-03-110, sec. 1(4), adopted 2/9/06)

**Sec. 4.06.034 Fees**

- (a) All fees for sign permits shall be in accordance with the current fee schedule adopted by the city council.
- (b) An annual renewal fee for applicable temporary signs shall be determined in accordance with the current fee schedule adopted by the city council.

(Ordinance 2006-03-110, sec. 1(5), adopted 2/9/06)

**Sec. 4.06.035 Conditional sign permit**

- (a) Generally. Notwithstanding anything in this article to the contrary, the erection of a sign or signs may be approved pursuant to this section under a conditional sign permit approved by the city council. The purpose of this section is to allow for a specialized review of signs which may not be appropriate generally without certain restrictions, but which, if controlled as to the number, size, height, color, location, lighting, or relation to adjacent properties, would promote the health, safety, and welfare of the community. Conditional permitting of signs shall not be based upon the content of the sign, but is intended to allow for the evaluation of the physical impact of the proposed sign on adjacent properties and to ensure adequate mitigation of potentially unfavorable factors, such as the number, size, height, color, location, lighting, and other potentially unfavorable impacts.
- (b) Application. An application for a conditional sign permit shall be submitted to the code enforcement officer and shall include all documents as required by section 4.06.033 of this article. Additionally, the applicant shall submit construction plans drawn by a registered professional engineer or architect in the state and also provide renderings of the particular sign types, facades, materials, compositions, dimensions, lighting, and colors.
- (c) Fee. Fees for conditional sign permits shall be determined in accordance with the current fee schedule adopted by the city council.

(Ordinance 2006-03-110, sec. 1(6), adopted 2/9/06)

**Sec. 4.06.036 Revocation of permit**

- (a) The code enforcement officer may suspend or revoke any permit issued under the provisions of this article whenever it is determined that the permit is issued in error or on the basis of incorrect or false information supplied, or whenever such permit is issued in violation of any of the provisions of this article or any other ordinance of this city or laws of this state or the federal government. Such suspension or revocation shall be effective when communicated in writing to the person to whom the permit is issued, the owner of the sign, or the owner of the site upon which the sign is located. Upon such revocation, all construction related to the revoked permit shall cease.

(b) A person may appeal the revocation of the sign permit to the city council by filing an appeal in accordance with this article. The city council shall affirm, reverse, or modify the suspension or revocation and such decision shall be final. Upon final determination that the permit is properly revoked, any portion of the sign in place as a result of the permit shall be removed within 10 days by the owner of the sign or the owner of the site on which the sign is located. Failure to remove the sign shall be deemed a violation of this article.

(Ordinance 2006-03-110, sec. 1(7), adopted 2/9/06)

**Sec. 4.06.037 Inspection**

The code enforcement officer shall periodically inspect each sign regulated by this article for the purpose of ascertaining whether the same is obsolete and whether it is in need of removal or repair. (Ordinance 2006-03-110, sec. 1(8), adopted 2/9/06)

**Sec. 4.06.038 Expiration of permit**

If the work authorized by a permit issued under this article has not been commenced within one hundred eighty (180) days after the date of issuance, the permit shall become null and void. (Ordinance 2006-03-110, sec. 1(9), adopted 2/9/06)

**Sec. 4.06.039 Investigation of work done without permit**

(a) Investigation. Whenever any work for which a permit is required by this article has been commenced or completed without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work.

(b) Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this article.

(Ordinance 2006-03-110, sec. 1(10), adopted 2/9/06)

**Sec. 4.06.040 Removal of signs**

(a) Obsolete signs. Any sign which the code enforcement officer determines to be obsolete shall be removed by the permit holder, owner of the sign or owner of the site on which the sign is located. For temporary signs, the sign must be removed as noted on the sign permit application or within three (3) days after receiving written notification to do so from the code enforcement officer. For permanent signs, the sign must be removed by the permit holder, owner of the sign, or owner of the site on which the sign is located within a reasonable time period as determined by the code enforcement officer. Upon failure to comply with such notice or to file an appeal of the decision in accordance with this article, the code enforcement officer is authorized to cause the removal of such sign, and any expense incident thereto shall be paid by the permit holder, owner of the sign or owner of the site on which the sign is located.

(b) Unsafe, dilapidated or deteriorated signs. If the code enforcement officer determines that any sign is unsafe or insecure, or is dilapidated or deteriorated, he shall give written notice to remove or replace (in accordance with this article) said sign to the person or persons responsible for such sign. If the permit holder, owner of the sign or owner of the site on which the sign is located fails to remove or repair the sign within ten (10) days after such notice or to file an appeal

of the decision in accordance with this article, the code enforcement officer is hereby authorized to cause the removal of such sign. Nothing contained herein shall prohibit the immediate removal, without notice, of any sign or portion of a sign which is determined by the code enforcement officer to be an immediate threat or danger to the public health, safety, or welfare. Any expense incident to the removal of a sign pursuant to this subsection shall be paid by the permit holder, owner of the sign or owner of the site on which the sign is located. The removal of the sign or portion of the sign shall be limited to the extent necessary to eliminate the threat to the public health, safety, and welfare.

(c) Signs on utility poles. Any sign that is erected, constructed or otherwise attached to a utility pole located upon any public right-of-way or utility easement may be removed by city personnel. The permit holder, owner of the sign or owner of the site on which the sign is located shall be charged a sign recovery fee in accordance with the current fee schedule adopted by the city council to recover such sign from the city unless the permit holder or owner satisfactorily establishes that such sign was not placed in the right-of-way by the owner of such sign or by any authorized agent, representative, or employee of said owner. Any such sign removed by city personnel may be held for a period of seventy-two (72) hours and upon expiration of such time may be disposed. The city is not required to notify the permit holder or owner of the sign that it has been picked up or that disposal of the sign is imminent.

(d) Signs in right-of-way or on public property. Any sign that is erected, constructed or otherwise located within or upon public right-of-way or on public property may be removed by city personnel and the permit holder or owner of such sign shall be charged a sign recovery fee in accordance with the current fee schedule adopted by the city council to recover such sign from the city. No such fee shall be charged if the permit holder or owner satisfactorily establishes that such sign was not placed in the right-of-way by the permit holder or owner of such sign or by any authorized agent, representative or employee of said owner. Any such sign removed by city personnel may be held for a period of seventy-two (72) hours and upon expiration of such time may be disposed. The city is not required to notify the permit holder or owner of the sign that it has been picked up or that disposal of the sign is imminent.

(e) Illegally erected signs. Any temporary sign that is erected, constructed or otherwise displayed, which the code enforcement officer determines to be in direct violation of this article, may be removed by city personnel. The permit holder, owner of the sign or owner of the site on which the sign is located shall be charged a sign recovery fee in accordance with the current fee schedule adopted by the city council to recover such sign from the city. Any such sign removed by city personnel may be held for a period of seventy-two (72) hours and upon expiration of such time may be disposed. The city is not required to notify the permit holder or owner of the sign that it has been picked up or that disposal of the sign is imminent. For permanent signs, the sign must be removed by the permit holder, owner of the sign, or owner of the site on which the sign is located within a reasonable time period as determined by the code enforcement officer. Upon failure to comply with such notice or to file an appeal of the decision in accordance with this article, the code enforcement officer is authorized to cause the removal of such sign, and any expense incident thereto shall be paid by the permit holder, owner of the sign or owner of the site on which the sign is located.

(f) Extent of sign removal. The code enforcement officer shall determine to what extent the elements of the sign must be removed to comply with this section. This may include any of the following, but is not limited to the following:

- (1) Sign copy. Removal of the text or copy portion of the sign.

- (2) Sign box. Removal of the portion of the sign excluding the structural support of the sign.
- (3) Entire sign. Removal of all structural elements of the sign.

(Ordinance 2006-03-110, sec. 1(11), adopted 2/9/06)

**Sec. 4.06.041 Filing of lien against property**

The city is authorized to file a lien against any property which is not otherwise exempt to recover expenses incurred by the city for the removal of a sign or portion of a sign from the property pursuant to section 4.06.040(f). (Ordinance 2006-03-110, sec. 1(12), adopted 2/9/06)

**Secs. 4.06.042–4.06.070 Reserved**

**Division 3. Appeals and Variances**

**Sec. 4.06.071 Appeals**

Any decision rendered by the code enforcement officer under this article may be appealed to the city council by any person, agent, or representative affected by such decision. Such appeal must be received within ten (10) days after the placement of a letter in the U.S. mail addressed to the address on the permit or the address of the current owner of record in the county tax records which states the written decision which has been rendered by the code enforcement officer. Such appeal shall be filed in writing with the code enforcement officer specifying the grounds on which the appeal is based. The code enforcement officer shall forthwith transmit to the city council all documents pertaining to the appealed action. The city council shall hear the appeal at a city council meeting as soon as practicable thereafter to determine whether the decision of the building official was in accordance with all ordinances and regulations. The decision of the city council shall be final. (Ordinance 2006-03-110, sec. 1(13), adopted 2/9/06)

**Sec. 4.06.072 Variances**

The city council may authorize variances to any restriction set forth in this article, including but not limited to the number, type, area, height, or setback of signs, or any other aspect involved in the sign permitting process. In granting any variance, the city council shall determine that a literal enforcement of the sign regulations will create an unnecessary hardship or a practical difficulty on the applicant, that the situation causing the unnecessary hardship or practical difficulty is unique to the affected property and is not self-imposed, that the variance will not injure and will be wholly compatible with the use and permitted development of adjacent properties, and that the granting of the variance will be in harmony with the spirit and purpose of this article. A person may request a variance from this article by filing the request with the code enforcement officer. Any request for variance shall be accompanied by a completed application and a nonrefundable filing fee in the amount specified in the current fee schedule adopted by the city council. (Ordinance 2006-03-110, sec. 1(14), adopted 2/9/06)

**Secs. 4.06.073–4.06.100 Reserved**

**Division 4. General Sign Regulations**

**Sec. 4.06.101 Wind pressure and dead load requirements**

All signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed to receive dead loads as required by the International Building Code. The sign permit application must include a statement signed by the applicant which states compliance with this requirement. (Ordinance 2006-03-110, sec. 1(15), adopted 2/9/06; Ordinance adopting Code)

**Sec. 4.06.102 Permitted sign structures and general regulations**

(a) Attached signs.

- (1) General standards. Unless otherwise specifically provided, the regulations set forth in this subsection shall be applicable to all attached signs which are allowed under this article. Signs may not be attached to light fixtures, poles, curbs, sidewalks, gutters, streets, utility poles, public buildings, fences, railings, public telephone poles, or trees. The direct painting of signs on buildings shall be prohibited except for signs less than a three (3) square foot area used for building identification.
- (2) Minimum and maximum letter or logo height. The minimum height allowed for letters or logos shall be six (6) inches. The maximum height allowed for letters or logos shall be based on the following criteria:

Distance From R.O.W.	Maximum Letter/Logo Height*
Less than 100 ft.	12 inches
101-150 ft.	18 inches
151-200 ft.	24 inches
201-250 ft.	30 inches
251-300 ft.	36 inches
301 and greater	42 inches

\*For any lease space which does not front on a street, the maximum letter/logo height shall be based on the distance from the vehicular driveway access.

- (3) Maximum area. 0.75 square feet for every one foot of width of building or lease space not to exceed 400 square feet.
- (4) Number of signs. Only one attached sign per lease space shall be allowed along each street frontage on any site, unless otherwise specifically provided in this article. A secondary sign may be permitted at a public entrance, provided the entrance is on another side of the building, but shall be limited to twenty-five percent (25%) of the primary or permitted sign size, whichever is more restrictive. The six (6) inch minimum letter/logo height will not apply to these secondary signs. No more than two (2) attached signs shall be allowed per lease space. Attached signs shall be located within the first story of the main exterior entrance for a building or lease space.

- (5) Sign width. Attached signs shall be limited in width to the middle seventy-five percent (75%) of the width of any building or lease space. In the event the lease space facade is horizontally articulated, the 75% rule shall apply to the allowed sign to be located on any single plane facade.
  - (6) Roof line limitations. In no case shall an attached sign project above the roofline of any building, except those attached to parapet walls and the sign may not extend above the parapet wall. Signs shall be no closer vertically to the eave of the roofline or overhang than the predominant letter height. Signs may be attached to a continuous plane fascia, if the sign does not extend above or below the projection of the fascia. Signs attached to a fascia are only allowed when attached to structural canopy supported to the ground by columns constructed of similar masonry material as the primary structure.
  - (7) Illumination. Attached signs may only be illuminated utilizing internal lighting. Exterior letters with exposed neon lighting are not allowed.
  - (8) Protrusions. Attached signs may not protrude farther than eighteen inches (18") from the building, excluding signs attached to canopies.
  - (9) Residential adjacency. Attached signs shall not be allowed on any facade (other than the main front of the building) which faces property zoned for single-family residential uses if the sign is within one hundred fifty feet (150') of the property line of said residential property.
- (b) Monument signs.
- (1) Generally. Unless otherwise specifically provided, the regulations set forth in this subsection shall be applicable to all monument signs which are allowed under this article.
  - (2) Minimum letter/logo height. The minimum height allowed for letters or logos shall be six (6) inches.
  - (3) Maximum height. Four (4) feet, excluding monument base and sign structure. The monument base may be an additional eighteen (18) inches in height measured from ground level at the center of the base to the top of the base. The sign structure shall not exceed five (5) feet.
  - (4) Maximum area. One hundred (100) square feet per sign with a maximum area per sign face of fifty (50) square feet. The maximum area for the sign structure shall not exceed seventy (70) square feet.
  - (5) Number of signs. Only one monument sign, excluding menuboard signs, shall be allowed along each street frontage on any site, unless otherwise specifically provided in this article. Monument signs may be no closer than five hundred (500) feet on any one site.
  - (6) Minimum setback. Fifteen (15) feet from any property line.



- (7) Material requirements. All monument sign bases shall be constructed of the same masonry material as the front building facade on the same site or shall be stone or brick. The sign structure must be constructed or covered with the same masonry material as the principal building, or stone, or brick. Sculpted aluminum sign panels will be allowed. All sign text and graphic elements shall be limited to a minimum of six (6) inches from the outer limits of the sign structure.
  - (8) Illumination. Monument signs may only be illuminated utilizing internal lighting for sculpted aluminum panels or a ground lighting source where the light itself and supporting structure are not visible from public R.O.W.
- (c) Ground signs.
- (1) Generally. Unless otherwise specifically provided, the regulations set forth in this subsection shall be applicable to all ground signs.
  - (2) Minimum setback. Fifteen (15) feet from any property line.
  - (3) Maximum height. Three feet (3').
  - (4) Maximum area. Eight (8) square feet with a maximum of four (4) square feet per sign face.
  - (5) Number of signs. One (1) sign per site.

(Ordinance 2006-03-110, sec. 1(16), adopted 2/9/06; Ordinance adopting Code)

#### **Sec. 4.06.103 Prohibited signs**

- (a) Generally. Any sign which is not specifically permitted in divisions 5 and 6 of this article shall be prohibited.
- (b) Obscene signs. No person shall erect or display on any site a sign in which the dominant theme of material taken as a whole appeals to a prurient interest in sex, or is patently offensive because it affronts community standards relating to the description or representation of sexual matters, and is utterly without redeeming social value.
- (c) Obstructing doors, windows, or fire escapes. No person shall erect or display on any site any sign which prevents free ingress to or egress from any door, window, or fire escape.
- (d) Obstructing vision/sight triangle. No person shall erect or display on any site any sign in such a manner as to obstruct free and clear vision at any location, street, intersection, or driveway. All signs placed at any intersection shall prevent such problem by observing a sight triangle as provided for in section 4.06.001 (Definitions).
- (e) Interference with traffic. No person shall erect or display on any site any sign which interferes with vehicular or pedestrian traffic as a result of the position, size, shape, movement, color, fashion, manner, or intensity of illumination or any other characteristics causing such interference. Nor shall any person erect or allow to be displayed any sign in such a manner as to interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, including, without limitation, signs making use of the words “stop,” “go,” “look,” “slow,”

“danger,” or any other similar word, phrase, symbol or character, or employ any red, yellow, green, or other colored lamp or light in such a manner as to cause confusion or otherwise interfere with vehicular or pedestrian traffic.

(f) Portable signs. No person shall erect or display on any site any portable sign; except, however, that upon a majority vote by the city council, a conditional use permit may be issued to any nonprofit organization for an on-site portable sign. Permits shall be issued for one thirty (30) day period with at least ninety (90) days separation between permits.

(g) Certain illuminated signs.

(1) No sign shall be illuminated to such an intensity or in such a manner as to cause a glare or brightness to a degree that it constitutes a hazard or nuisance to traffic. Moving, flashing, intermittent lighted, changing color, revolving, or similarly constructed signs shall not be allowed.

(2) No lighted sign shall be erected or displayed within one hundred fifty (150) feet of a single-family residentially zoned property unless the lighting is shielded from view of the residentially zoned property and indirect light does not exceed 1/2 lumen measured from any property line of the residentially zoned property.

(h) Signs projecting on/over public property or public right-of-way. It shall be prohibited to erect or display any type of sign on or over public right-of-way (R.O.W.) or other public property, unless the same be erected by the city, county, state or other authorized governmental agency, or with the permission of the city, for public purposes.

(i) Roof signs. Any sign erected on a vertical framework supported by and located immediately and entirely over the roof of a building is prohibited. Any sign attached to a fascia extending above the projection of the fascia shall be prohibited. The painting or otherwise affixing of signs on a roof is prohibited.

(j) Signs on utility poles. No person shall erect or display any sign on any utility pole located upon any public right-of-way or utility easement.

(Ordinance 2006-03-110, sec. 1(17), adopted 2/9/06)

**Secs. 4.06.104–4.06.130            Reserved**

### **Division 5. Specific Sign Regulations**

#### **Sec. 4.06.131    Applicability**

This division regulates the type of sign structure allowed for each type of sign permitted by this article. Each of the signs identified in this division is subject to the general sign provisions set forth in division 4 of this article except where modifications to the general regulations are noted. (Ordinance 2006-03-110, sec. 1(18), adopted 2/9/06)

**Sec. 4.06.132 Permanent signs requiring permit**

Unless otherwise specifically provided, the regulations set forth in this article shall be applicable to all of the following signs.

- (1) Business sign.
  - (A) Permitted sign structure: Attached and/or monument.
  - (B) Modifications to general regulations: None.
- (2) Menuboard sign.
  - (A) Permitted sign structure: Attached and/or monument.
  - (B) Modifications to general regulations:
    - (i) Minimum letter/logo height: Not applicable.
    - (ii) Maximum height: Six feet (6').
    - (iii) Maximum area: Twenty-four (24) square feet. Only one face will be allowed per sign.
    - (iv) Maximum number of signs: No more than two (2) signs per site.
    - (v) Location limitations: All menuboard signs must be located at the side or rear of the principal building. If two (2) signs are erected, signs must be at least eighteen (18) feet apart.
    - (vi) Illumination: Internal lighting may be utilized for the sign panel.
- (3) Subdivision entry sign.
  - (A) Permitted sign structure: Attached and/or monument.
  - (B) Modifications to general regulations:
    - (i) Maximum height: An attached sign may not project above the top of the wall.
    - (ii) Maximum area: Thirty-two (32) square feet for an attached sign.
    - (iii) Maximum number of signs: One (1) monument sign or two (2) attached wall plaque signs (not a combination thereof) per street entrance.
    - (iv) Placement of sign: A monument sign may be located on the median at the street entrance if approved by the city council on the concept plan, in a developer's agreement, or by a separate application.

- (4) Bulletin board sign.
- (A) Permitted sign structure: Attached, monument and/or ground.
  - (B) Modifications to general regulations:
    - (i) Minimum letter/logo height: Not applicable.
    - (ii) Maximum height: Six (6) feet.
    - (iii) Maximum area: Eighteen (18) square feet. Only one face allowed per sign.
    - (iv) Maximum number of signs: One (1) per subdivision entrance, not to exceed two (2) per subdivision.
    - (v) Minimum setback: Not applicable.
    - (vi) Location where allowed: No closer than one hundred (100) feet from an arterial. The sign must be located on a designated common area and maintained by the homeowners' association.
    - (vii) Material requirements: The bulletin board must have a lockable covering. The masonry requirement shall not apply.
- (5) Directory sign.
- (A) Permitted sign structure: Attached and/or monument.
  - (B) Modifications to general regulations:
    - (i) Minimum setback: Seventy-five (75) feet from drive entrance at right-of-way.
    - (ii) Maximum number of signs: One (1) sign per street entrance.
    - (iii) Residential adjacency: Not applicable.
    - (iv) Locations where allowed: Only distance measurements shall apply.
- (6) Institutional sign.
- (A) Permitted sign structure: Attached and/or monument.
  - (B) Modifications to general regulations:
    - (i) General standards:
      - a. The sign must be integral to the permitted sign for the site.

- b. Messages on readerboards, whether electronic or manual, may not scroll, flash, or change more frequently than once a day.
  - c. Manual readerboard signs using alphabetical lettering must have a lockable covering.
  - (ii) Maximum area: The readerboard display cannot exceed two-thirds (2/3) of the permitted gross surface area per face of the sign, excluding the monument sign border.
  - (iii) Illumination: Internal illumination may be utilized for the sign panel.
- (7) Directional sign.
- (A) Permitted sign structure: Monument.
  - (B) Modifications to general regulations:
    - (i) Maximum height: Three (3) feet.
    - (ii) Maximum area: Eight (8) square feet with a maximum of four (4) square feet per sign face.
    - (iii) Number of signs: Maximum of two (2) signs per site.

(Ordinance 2006-03-110, sec. 1(19), adopted 2/9/06)

**Sec. 4.06.133 Permanent signs exempt from permit**

A permit shall not be required for the following signs:

- (1) Home occupation sign.
  - (A) Permitted sign structure: Attached.
  - (B) Modifications to general regulations:
    - (i) Minimum letter/logo height: Not applicable.
    - (ii) Maximum area: One (1) square foot.
    - (iii) Maximum number of signs: One (1).
    - (iv) Locations where allowed: Any sign must be non-illuminated and mounted flat against the wall at the entrance of the home occupation.

(Ordinance 2006-03-110, sec. 1(20), adopted 2/9/06)

**Sec. 4.06.134 Temporary signs requiring permit**

A permit shall be required for the following signs:

- (1) Banner.
  - (A) Permitted sign structure: Attached.
  - (B) Modifications to general regulations:
    - (i) Maximum area: 0.5 square feet for every one foot of width of building or lease space not to exceed fifty (50) square feet.
    - (ii) Maximum number of signs: One (1) per site.
    - (iii) Duration: Maximum fifteen (15) days, twice per calendar year with a sixty (60) day separation between permits.
  
- (2) Model home sign.
  - (A) Permitted sign structure: Monument and/or ground.
  - (B) Modifications to general regulations:
    - (i) Maximum height: Five (5) feet for ground signs.
    - (ii) Maximum area: Sixty-four (64) square feet with a maximum of thirty-two (32) square feet per sign face.
    - (iii) Maximum number of signs: One (1) sign per builder per subdivision.
    - (iv) Material requirements: Not applicable.
  
- (3) Special purpose sign.
  - (A) Permitted sign structure: Attached and/or ground.
  - (B) Modifications to general regulations:
    - (i) Maximum height: Nine (9) feet for ground signs.
    - (ii) Maximum area: Sixty-four (64) square feet with a maximum of thirty-two (32) square feet per sign face.
    - (iii) Maximum number of signs: Six (6) total per event or occasion, not to exceed five (5) off-site signs and one (1) on-site sign.
    - (iv) Placement time: Twenty-one (21) days; must be removed within three (3) days after termination of the event. No more than twice a year.

- (v) Material requirements: Not applicable.
- (vi) Residential adjacency: Not applicable.
- (4) Development sign.
  - (A) Permitted sign structure: Monument and/or ground.
  - (B) Modifications to general regulations:
    - (i) Maximum height: Five (5) feet.
    - (ii) Maximum area: Sixty-four (64) square feet with a maximum of thirty-two (32) square feet per sign face.
    - (iii) Maximum number of signs: One (1) per site.
    - (iv) Duration: The sign may be installed at any time after the issuance of the building permit for a commercial development or approval of the developer's agreement for a residential subdivision. The sign must be removed within one (1) year or upon the issuance of a certificate of occupancy for a commercial development and upon the issuance of a certificate of occupancy on seventy-five percent (75%) of the lots within the subdivision for a residential subdivision.
  - (v) Material requirements: Not applicable.

(Ordinance 2006-03-110, sec. 1(21), adopted 2/9/06)

**Sec. 4.06.135 Temporary signs exempt from permit**

A permit shall not be required for the following signs:

- (1) Builder sign.
  - (A) Permitted sign structure: Ground.
  - (B) Modifications to general regulations:
    - (i) Duration: Signs may only be placed after issuance of a building permit and must be removed upon the issuance of a certificate of occupancy.
    - (ii) Minimum setback: Not applicable.
- (2) Real estate sign.
  - (A) Permitted sign structure: Attached, monument, and/or ground.

- (B) Modifications to general regulations:
  - (i) Minimum letter/logo height: Not applicable.
  - (ii) Maximum height: Five (5) feet above grade for ground signs; below roof line for attached.
  - (iii) Maximum area: Sixty-four (64) square feet with a maximum of thirty-two (32) square feet per sign face.
  - (iv) Maximum number of signs: One (1) per site.
  - (v) Minimum setback: Not applicable for ground signs four (4) square feet or less per face in area.
- (3) Window sign. Window signs may not obscure more than fifteen percent (15%) of the window area per facade, measured and located within ten (10) vertical feet from the at-grade exterior entrance to the lease space. The area of the sign shall be measured by the smallest box that could be drawn around the continuity of the sign. No illuminated window signs shall be allowed within two feet of the window glazing except for open/closed signs.
- (4) Garage/yard sale sign.
  - (A) Permitted sign structure: Ground.
  - (B) Modifications to general regulations:
    - (i) Maximum number of signs: Four (4) per sale; not more than three (3) off-site signs, with only one (1) off-site sign per sale along any one (1) of the numbered highways 287 and 2264; all signs must display the street address of the sale.
    - (ii) Minimum setback: Not applicable.
    - (iii) Placement time: 12:00 noon Thursday to 12:00 noon Monday or on any legal holiday.
    - (iv) Frequency limitation: Not to exceed four per year.

(Ordinance 2006-03-110, sec. 1(22), adopted 2/9/06; Ordinance adopting Code)

#### **Sec. 4.06.136 Temporary off-premise real estate signs**

The following signs may be erected and maintained subject to the following restrictions:

- (1) Builders and developers. Builders and developers may erect temporary off-premise signs which refer to a subdivision. No more than ten signs per subdivision may be erected. Such signs shall refer only to subdivisions located within the city. A subdivision shall be defined as a platted tract of land that is zoned residential. Separate sections or phases of a subdivision shall not constitute a new and separate



subdivision. Such signs shall not list or refer to any builders or developers, and shall be erected only between the hours of 6:00 p.m. Thursday and 10:00 p.m. Sunday. Such sign faces shall not exceed six square feet in effective area, or 36 inches in height as measured from grade. Signs may only be placed in the city's rights-of-way. No sign will be allowed within any street median or attached to any tree, public utility pole, street sign, traffic-control sign or device or other sign. No permit or fee is required.

- (2) Real estate open house signs. Real estate agents or homeowners may erect on private or public right-of-way, temporary off-premise signs which are only directional and only refer to open houses within the city. Signs may contain only a directional arrow and the words "OPEN HOUSE." Such signs shall be erected only between the hours of 6:00 p.m. Thursday and 10:00 p.m. Sunday. Signs shall not exceed two square feet in effective area or 36 inches in height, as measured from grade. Signs may be placed within the public right-of-way provided that they do not project out over the street or sidewalk. No sign shall be allowed within any street median or attached to any tree, public utility pole, street sign, traffic-control sign or device or other sign. No permit or fee is required.

(Ordinance 2009-04-143 adopted 2/26/09)

**Secs. 4.06.137–4.06.170            Reserved**

#### **Division 6. Exemptions and Special Conditions**

##### **Sec. 4.06.171      Exempt signs**

The following signs are exempted from the requirements of this article:

- (1) Vehicular signs, unless the sign is used or intended to be used as an on-site or off-site sign. It shall be prima facie evidence that a sign is used as an on-site or off-site sign if a vehicle is parked at the same location for a continuous period exceeding seventy-two (72) hours. No person shall attach any sign to a trailer, skid, or similar mobile structure, where the primary use of such structure is to provide a base for such sign or to constitute the sign itself. This provision shall not be interpreted to prohibit identification signs on vehicles used for business purposes, nor shall it be interpreted to prohibit bumper stickers.
- (2) Warning and security signs.
- (3) Government signs and signs for nonprofit organizations sponsored by government including flags, insignia, legal notices, and informational, directional, and traffic signs which are legally required or necessary to the essential functions of government agencies.
- (4) "No Dumping" and "No Trespassing" signs.

- (5) Signs in public parks placed inside ball field fencing by the city, which are intended for advertising to raise funds for recreation programs, which have copy on only one face with the copy facing toward the interior of the field.
- (6) Political signs, unless affixed to the ground or a grounded structure located within public right-of-way or on public property.

(Ordinance 2006-03-110, sec. 1(23), adopted 2/9/06)

**Sec. 4.06.172 Nonconforming existing signs**

(a) All signs that are lawfully in existence on the date of adoption of this article may exist in their present form, but no such signs shall be altered or moved unless a permit is issued pursuant to the provisions of this article. Permits granted prior to the passage of this article shall be renewed only if the applicant complies with all provisions of this article.

(b) Any legal, nonconforming sign which has been substantially destroyed or dismantled for any purpose other than maintenance shall be deemed as completely destroyed if the cost of repairing the sign is more than 60% of the cost of erecting a new sign of the same type at the same location. Under this provision, the sign shall be removed and a permit shall be required to erect a new sign.

(Ordinance 2006-03-110, sec. 1(24), adopted 2/9/06)

**Sec. 4.06.173 Noncommercial sign copy**

Notwithstanding anything contained herein to the contrary, any sign authorized in this article is allowed to contain noncommercial (ideological) copy in lieu of any other copy. (Ordinance 2006-03-110, sec. 1(25), adopted 2/9/06)

**ARTICLE 4.07 SWIMMING POOLS AND SPAS**

**Sec. 4.07.001 Applicability**

This article and the provisions set forth herein shall apply to a pool, herein defined as any pool, spa, hot tub, or other water-containing device used, designed, or intended for recreational or therapeutic use that has a depth of water of at least twenty-four (24) inches, and a capacity of at least 5,000 gallons. Unless otherwise expressly provided, this article shall not apply to a tank or cistern that has a fixed roof or top, which is designed, used and intended for use for solely irrigation purposes, or to ponds, lakes or bodies of water in a natural state. (Ordinance 2007-09-124 adopted 6/19/07)

**Sec. 4.07.002 Permit**

(a) No person, firm or association shall install, construct, equip, operate or maintain a pool without first having applied for and been issued a valid permit. Permit applications shall be made on a form furnished by the town and shall be accompanied by the appropriate permit fee as set by the town council.

(b) The mayor or his designee may deny, suspend or revoke a permit if the applicant or occupant or owner of the property on which the pool is situated is in violation of any of the terms of this article, if the mayor or his designee determines that the pool is kept or maintained in a condition that presents a risk of danger or injury to persons or property, or if a property owner or occupant fails to allow access to the premises on which the pool is or may be situated for the purposes of inspection.

(c) If a permit is denied, revoked or suspended, a new permit application may be made, and the appropriate permit fee paid, or a request to lift the suspension may be made, if the violation or condition that caused the denial, revocation or suspension is corrected.

(d) The denial, suspension or revocation of a permit by the mayor or his designee may be appealed to the town council. Action by the town council shall be final.

(Ordinance 2007-09-124 adopted 6/19/07)

**Sec. 4.07.003 Site requirements; general standards**

(a) Distance from property lines and structures. The minimum distance from the water's edge to the side and rear property line of the property on which the pool is situated shall be not less than fifteen (15) feet. The minimum distance from the water's edge to any structure (dwelling or accessory building) shall be not less than fifteen (15) feet.

(b) Location in front yard or easement. No pool shall be located within the required front yard setback or within a public or private easement.

(c) Access from dwelling unit. A door in an exterior wall of a dwelling unit which allows direct access to a pool shall have a latching device installed on the interior side of the door which does not require the use of a key in order to exit the dwelling unit and must be located between forty (40) and forty-eight (48) inches above floor level.

(d) Covering or enclosure of hot tubs and spas. Hot tubs and spas shall be enclosed by either a fence or a rigid cover that completely covers the surface of the spa or hot tub when not in use.

(e) State requirements. All state requirements relating to on-site waste water and pools must be met.

(Ordinance 2007-09-124 adopted 6/19/07)

**Sec. 4.07.004 Fencing**

(a) All pools shall be completely surrounded by a fence or wall, not less than forty-eight (48) inches in height, which shall be so constructed and maintained as not to have openings, holes, or gaps larger than four (4) inches. The fence or wall shall be of sufficient strength to prevent the entry of children or animals into the enclosed area.

(b) A fence shall be installed in accordance with the requirements of this code prior to filling the pool.

(c) All pool fence gates shall be at least forty-eight (48) inches in height and equipped with self-closing and self-latching devices designed to keep and capable of keeping such gates securely closed at all times when not in actual use. The latching device shall be located at least forty (40) inches above average grade.

(Ordinance 2007-09-124 adopted 6/19/07)

**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.

**Sec. 4.07.005 Energy conservation, mechanical and electrical requirements**

(a) All swimming pool, spa and hot tub pumps shall be equipped with a time clock or timer, maintained in good working order, so that the pump may be set for the minimum time necessary to maintain the water in a clean and sanitary condition.

(b) No electrical equipment shall be placed within five (5) feet of the water’s edge without prior approval by the town.

(c) No exterior convenience outlet shall be closer than ten (10) feet horizontally from the water’s edge. Existing exterior convenience outlets that are within ten (10) feet of the water’s edge shall be removed or permanently disconnected and covered.

(d) Ground fault circuit interrupters shall be installed so as to protect all exterior convenience outlets.

(e) Overhead conductors shall not be closer than twenty (20) feet horizontally from the water’s edge.

(f) Filter backwash water must be tied into the sanitary sewer, if available, and must be properly trapped and vented.

(g) All electrical work shall be performed by a licensed electrician. The installation of a P-trap and any gas heater or other appliance using natural gas or propane shall be performed by a licensed plumber.

(Ordinance 2007-09-124 adopted 6/19/07)

**Sec. 4.07.006 Inspections**

(a) The following inspections shall be required prior to the issuance of a final permit:

- (1) Belly steel inspection for swimming pools;
- (2) Electrical, plumbing, gas, fence and decking inspections;
- (3) Underground electrical inspection; and
- (4) Gas line and P-trap inspection.

(b) The town may inspect any pool at any reasonable time and has the authority to enter upon the premises where a pool is located to the extent necessary to make a full examination. Water samples from a pool may be taken.

(Ordinance 2007-09-124 adopted 6/19/07)

**Sec. 4.07.007 Offenses; penalty**

(a) It shall be unlawful to maintain any pool which is not fenced in accordance with the requirements of this article or this code.

(b) A pool shall be continually kept and maintained in a clean and sanitary condition, free of algae and harmful bacteria. The water clarity of a pool shall be continually maintained so that the bottom surface of the pool is visible.

(c) No person shall keep or maintain any body of water, whether or not defined as a pool by this article, on property owned or under that person's control such that the pool, cistern, tank, pond, lake or other body of water contains stagnant water, may constitute a public or private nuisance, may produce disease, or may constitute a breeding ground or harborage for rodents, vermin, or parasites.

(d) Any person, individual, firm, corporation or association violating any provision of this section or article shall be deemed guilty of a misdemeanor, and shall upon conviction be fined in accordance with the general penalty provided in section 1.01.009 of this code.

(Ordinance 2007-09-124 adopted 6/19/07; Ordinance adopting Code)

**Sec. 4.07.008 Notice of violation; correction by city; lien for city's costs**

(a) In addition to any other remedy allowed herein or by other law, in the event that any person, owner or occupant of premises on which a pool is situated fails to comply with the requirements of this article, the town may issue and serve written notice of such as follows:

- (1) Delivered personally to the owner and occupant in writing;
- (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located;
- (3) If personal service cannot be obtained or the owner's or occupant's address is unknown:
  - (A) By publication in the town's official newspaper at least once;
  - (B) By posting the notice on or near the front door of each building on the property to which the violation relates; 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 owner or occupant of the property does not comply with the notice and this article within seven (7) days of notice of the violation given as stated above, the town may, on written request with good cause demonstrated, grant up to twenty-one (21) additional days for correction of the violation, or may:

- (1) Issue a citation charging such owner or occupant with a violation of this article;
- (2) Do the work or make the improvements required, including but not limited to draining or filling; and
- (3) Pay for the work done or improvements made and charge the expenses to the owner of the property.

(c) The town may assess expenses incurred under this section against the real estate on which the work is done or improvements made in accordance with this section.

(d) To obtain a lien against the property, the mayor or his designee, including any other designated town official, must file a statement of expenses with the county clerk of Wise County. The statement of expenses must identify the name of the owner, if known, and the legal description of the property.

(e) The lien obtained by the town is security for the expenditures made and interest accruing at the rate of ten percent (10%) per annum on the amount due from the date of payment by the town for the work done or improvements made. The lien is inferior only to tax liens and liens for street improvements.

(f) The town may authorize a suit for foreclosure in the name of the town to recover the expenditures and interest due. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the town in doing the work or making the improvements.

(g) The remedy provided in this section is in addition to any fine which may be imposed for a violation of this article and is cumulative of and in addition to any other remedies which may be provided for by this code or other law, whether civil or criminal.

(Ordinance 2007-09-124 adopted 6/19/07)

**ARTICLE 4.08 EXCAVATIONS AND SITE PREPARATION**

**Sec. 4.08.001 Permit required**

Excavation, preparation of soils for the purpose of construction and/or drilling and/or retention, or pad sites within the corporate city limits shall require a permit from the city secretary's office. (Ordinance 2000-02-0062, sec. I, adopted 1/24/00)

**Sec. 4.08.002 Regulations**

(a) Construction of any type not included in the issuance of other ordinance permits as part of that permitted use. Such as: gravel and/or hard surface roads, retainer walls, drainage ditches, well sites, water towers, tank battery sites, transformer sites, generation sites, etc.

- (b) Topsoil shall be replaced after completion.
- (c) Silt barriers shall be used when necessary.
- (d) No tree larger than 10 [inches] diameter may be removed without the city council's approval.

(Ordinance 2000-02-0062, sec. II, adopted 1/24/00)

**Sec. 4.08.003 Application for permit**

The application to the city:

- (1) Shall show the exact location of proposed work on any and all properties in scale and show a north arrow.
- (2) Shall show all roads adjacent and on properties on which work will be done.
- (3) Shall show all utility and [sic] pipelines and easements currently on properties on which work will be done.
- (4) Roads must meet the criteria of city ordinances.

(Ordinance 2000-02-0062, sec. III, adopted 1/24/00)

**Sec. 4.08.004 Permit fee established**

The permit fee shall be computed on the gross value of the project as set forth in the fee schedule in appendix A of this code. (Ordinance 2003-08-094 adopted 1/13/04; Ordinance adopting Code)

**Sec. 4.08.005 Penalty**

Fine for failure to comply:

- (1) \$20.00 to \$2000.00.
- (2) Up to \$500.00 per day after the third day of violation until compliance.

(Ordinance 2003-08-094 adopted 1/13/04)

**Sec. 4.08.006 Time limits**

Construction must begin within six months of the permit date. Failure to do so will result in a review of the application by the city council and be subject to new permit fees and/or compliance with any new ordinances. The project must be completed within 90 (ninety) days. A continuance can be granted by the city council, and may include new permit fees and/or compliance with any new ordinance. (Ordinance 2000-02-0062, sec. VI, adopted 1/24/00)

**Sec. 4.08.007 Refund of fees**

The city secretary may refund monies collected as fees under this article if the application is withdrawn and the city on the applicant’s behalf has incurred no expenses. Written request is required within 10 (ten) days by the applicant for the city secretary to refund any fees and/or any inadvertent overcharges. (Ordinance 2000-02-0062, sec. VII, adopted 1/24/00)

**ARTICLE 4.09 INSTALLATION OF UTILITY LINES, PIPELINES AND TELECOMMUNICATION TRANSMISSION PATHS\***

**Sec. 4.09.001 Applicability**

No person shall commence or continue with the construction, installation, or operation of facilities within the city except as provided by the ordinances of the city and the directives of the city council. All construction activity in the city will be in accordance with this article. (Ordinance 1999-33-0060, sec. 1, adopted 12/13/99)

**Sec. 4.09.002 Construction permit**

(a) Permit applications are required for construction or installation of new, replacement or upgraded facilities in the city, whether aerial or underground, except as provided herein. The permit will be in the name of the person who will own the facilities to be constructed. The permit must be completed and signed by a representative of the owner of the facilities to be constructed. No permit is required by the utility companies when bringing service drops from the service line to the service location.

- (1) Emergency responses related to existing facilities may be undertaken without first obtaining a permit; however, the city should be notified in writing within two (2) business days of any construction related to an emergency response, including a reasonably detailed description of the work performed in the city and an updated map of any facilities that were relocated, if applicable.
- (2) The phrase “construction or installation of new, replacement or upgraded facilities” does not include repair or maintenance of existing facilities unless such repair or maintenance requires the following: the breaking of pavement, the closure of a nonresidential traffic lane, the installation of facilities necessary to initiate service to a customer’s property, excavation or boring.

(b) The permit shall state to whom it is issued, location of work, location of facilities, dates and time work is to take place and any other conditions set out by the mayor or his/her designee.

(c) The person requesting a permit will provide the mayor or his/her designee with documentation describing:

- (1) The proposed approximate location and route of all facilities to be constructed or installed and the applicant’s plan for construction.

---

\* **State law reference**—Use of municipal streets and sidewalks for public conveniences and amenities or for private uses, V.T.C.A., Transportation Code, ch. 316.



- (2) Engineering is on a scale with a north arrow.
- (3) Detail of the location which the applicant plans to use.
- (4) Detail of all existing city utilities in relationship to the applicant's proposed route.
- (5) Detail of what the applicant proposes to install, such as number of interducts, valves, etc.
- (6) Details of plans to remove and replace asphalt or concrete in streets (include city standard construction details for pavement patching types A and/or B).
- (7) The drawing shall show the exact distance from the property line of current survey of properties affected, both public and private.
- (8) The drawing shall show all streets on and/or touching all properties affected.
- (9) The drawing shall show all buildings within 500 feet of placement of the subject line.
- (10) A drawing of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, etc., including depth.
- (11) Handhole and/or manhole typical of type of manholes and/or handholes the applicant plans to use or access.
- (12) Complete legend of drawings submitted by the applicant.
- (13) The name, address, and phone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will be available at all times during construction. Such information, if known, shall be required prior to the commencement of any work.
- (14) The construction and installation methods to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the right-of-way, and the dates and times work will occur, all of which (methods, dates, times, etc.) are subject to approval of the mayor or his/her designee.
- (15) A statement that the requirements of this article are met.
- (16) The drawing shall show the total number of square feet incorporated into easements whenever not on public land.
- (17) The drawing shall show all existing subject lines and easements on affected private properties and the square footage of existing lines.
- (18) The drawing shall show the exact location of roads and/or rights-of-way and/or easements to be created to service subject lines and square footage to be utilized doing so.
- (19) The permit shall state what will be transported.

- (20) The permit shall state under what maximum pressure the fluid/gas will be transported at.
- (d) All construction and installation in the city shall be in accordance with the permit for the facilities. The mayor or his/her designee shall be provided access to the work and to such further information as he or she may reasonably require to ensure compliance with the permit.
- (e) A copy of the construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the mayor or his/her designee at all times when construction or installation work is occurring.
- (f) All construction or installation work authorized by the permit must be started within six months of the date permitted or the permit will have to be reconsidered by an authorized agent of the city. Construction must be completed in within 90 days of the start of the project phase. If the work cannot be completed in the specified time periods, the permittee may request an extension from an authorized city agent. The agent will use his/her best effort to approve or disapprove a request for permit as soon as possible.
- (g) A copy of any permit or approval issued by federal or state authorities for work in federal or state right-of-way located in the city shall be provided, if requested by the mayor or his/her designee.
- (h) A request for a permit must be submitted at least five (5) working days before the proposed commencement of work in the request, unless waived by the mayor or his/her designee. Permit requests for large projects may require additional review time.
- (i) Requests for permits will be approved or disapproved by the mayor or his/her designee within a reasonable time of receiving all the information. The mayor or his/her designee will use his/her best efforts to will use [sic] to approve or disapprove a request for permit as soon as possible.
- (j) The mayor or the applicant can request a pre-construction meeting with the permittee and their construction contractor.
- (k) Permittees are required to contact Dig Test to determine where any existing lines are on the property, and have them properly marked before any work may begin.

(Ordinance 1999-33-0060, sec. 1(I), adopted 12/13/99)

**Sec. 4.09.003 Construction standards; permit fee**

- (a) The city must be notified twenty-four (24) hours in advance that construction is ready to proceed by either the facility owner, their contractor or representative. At the time of notification, the right-of-way user will inform the city of the number (or other information) assigned from the one-call system.
- (b) All construction shall be in conformance with all city codes and standard details for construction and applicable local and federal laws. Backfilling shall meet or exceed federal Department of Transportation requirements.

- (c) Erosion control measures (e.g., silt fence) and advance warning signs, markers, cones and barricades must be in place before work begins, if applicable.
- (d) Barricades and signage shall be installed in accordance with the Texas Manual of Uniform Traffic Control Devices.
- (e) Permittees are responsible for the workmanship and any damages by its contractor or subcontractors. Permittees are responsible for maintaining job site and roadway cleanliness. A responsible representative of the permittee will be available to the city at all times during construction.
- (f) The permittee shall comply with city, state and federal guidelines applicable to the permittee.
- (g) The permittee, contractor, or subcontractor will notify the city immediately of any damages to other utilities, either city or privately owned.
- (h) It is the city's policy not to cut streets or sidewalks; however, when a street or sidewalk cut is required, prior approval must be obtained from the city and all requirements of the city shall be followed. Repair of all streets and sidewalk removals must be made promptly to avoid safety hazards to vehicle and pedestrian traffic.
- (i) Installation of facilities must not interfere with city utilities, in particular gravity dependent facilities.
- (j) New facilities must be installed to a depth in conformance with applicable state and federal guidelines. In the absence of state and federal guidelines, new facilities shall be installed to a depth approved by the city.
  - (1) All buried lines carrying electricity or telecommunications shall be a minimum of 18 (eighteen) inches in depth.
  - (2) All lines carrying water shall be a minimum of 18 (eighteen) inches on public and 12 (twelve) inches on private property.
  - (3) All lines with pressure greater than 100 psi shall be a minimum of 36 inches in depth.
  - (4) All aerial lines must be in compliance with the National Electrical Code.
- (k) All work shall be performed in compliance with city noise and nuisance code requirements.
- (l) The permittee will be responsible for verifying the location both horizontal and vertical of all facilities, whether by pot-holing, hand digging or other method approved by the city. Handholes or manholes will not be located in sidewalks, unless approved by the city.
- (m) Placement of all manholes and/or handholes must be approved in advance by the city. Handholes or manholes will not be located in sidewalks, unless approved by the city.
- (n) Locate flags shall not be removed from a location while facilities are being constructed.

- (o) Construction that requires pumping of water or mud shall be contained in accordance with federal and state law.
- (p)
  - (1) The permit fee shall be computed on the gross value of the project as provided in the fee schedule in appendix A of this code.
  - (2) Any water line of less than 1-1/2 inch diameter and less than 200 feet in length used for private purposes on private property shall be exempt.
  - (3) Any liquid petroleum line smaller than 3/4 inch and fifty feet in length used for home heating and on private property with shut-off valve and regulator shall be exempt.
  - (4) Permit fees are exempt for all utilities and companies holding effective franchise agreements.

(Ordinance 1999-33-0060, sec. 1(II), adopted 12/13/99; Ordinance adopting Code)

**Sec. 4.09.004 Conformance with public improvements**

Whenever, by reasons of widening or straightening of streets, water or sewer line projects, or any other public works projects (e.g., install or improve storm drains, water lines, sewer lines, etc.), it shall be deemed necessary by the governing body of the city to remove, alter, change, adapt, or conform the underground or overhead facilities of a permittee to another part of the city, such alterations shall be made by the owner of the facilities at their expense, unless provided for by state law or an existing franchise until that franchise expires or is otherwise terminated, within the time limits set by the city working in conjunction with the owner or, if no time frame can be approved, within one hundred twenty (120) days from the day the notice was sent to make the alterations, unless a different schedule has been approved by the city. Facilities not moved after one hundred twenty (120) days or within the approved schedule, as it may be extended from time to time, shall be deemed abandoned after one hundred thirty (130) days' notice, except for force majeure. (Ordinance 1999-33-0060, sec. 1(III), adopted 12/13/99)

**Sec. 4.09.005 Improperly installed or maintained facilities**

- (a) Any person doing work in the city shall properly install, repair, upgrade and maintain facilities.
- (b) Facilities installed after the effective date of this article shall be considered to be improperly installed, repaired, upgraded or maintained if:
  - (1) The installation, repairs, upgrade or maintenance endangers people;
  - (2) The facilities do not meet the applicable city codes;
  - (3) The facilities are not capable of being located using standard practices;
  - (4) The facilities are not located in the proper place at the time of construction in accordance with the directions provided by the city.

(Ordinance 1999-33-0060, sec. 1(IV), adopted 12/13/99)

**Sec. 4.09.006 Restoration of property**

(a) Users of the right-of-way shall restore property affected by construction of facilities to a condition that is equal to or better than the condition of the property prior to the performance of the work.

(b) Restoration must be to the reasonable satisfaction of the city and the property owner. The restoration shall include, but not be limited to:

- (1) Replacing all ground cover with the type of ground cover damaged during work or better either by sodding or seeding, as directed by the city;
- (2) Installation of all manholes and handholes, as required;
- (3) Backfilling all bore pits, potholes, trenches or any other holes shall be filled in daily, unless other state or federal safety requirements are followed;
- (4) Leveling of all trenches and backhoe lines;
- (5) Restoration of the excavation site to city specifications; and
- (6) Restoration of all landscaping, ground cover, and sprinkler systems.

(c) All locate flags and information signs shall be removed during the cleanup process by the permittee or his/her contractor at the completion of the work.

(d) Restoration must be made in a timely manner as specified by approved public works schedules and to the satisfaction of the city. If restoration is not satisfactory and performed in a timely manner, all work in progress, except that related to the problem, including all work previously permitted but not completed, may be halted and a hold may be placed on any permit not approved until all restoration is complete.

(Ordinance 1999-33-0060, sec. 1(V), adopted 12/13/99)

**Sec. 4.09.007 Revocation or denial of permit**

If any of the provisions of this article are not followed, the city may revoke a permit and impose a fine. The fine for failure to comply is \$200.00 for violation of this article and up to \$50.00 per day after the third day of violation until compliance. If a person has not followed the terms and conditions of this article in work done pursuant to a prior permit, new permits may be denied or additional terms required. Any request for permit which is considered unjustly wasteful of surface rights and/or unjustly damaging to the welfare, safety, and health of the city and/or its citizens may be refused by an authorized city agent. (Ordinance 1999-33-0060, sec. 1(VII), adopted 12/13/99)

**Sec. 4.09.008 Appeals**

Appeal from denial or revocation of permit or from the decision of the city shall be to the city council. Appeals shall be filed with the city secretary within fifteen (15) days. (Ordinance 1999-33-0060, sec. 1(VIII), adopted 12/13/99)



# CHAPTER 5

## BUSINESS REGULATIONS

ARTICLE 5.01 GENERAL PROVISIONS .....	5-7
ARTICLE 5.02 ALCOHOLIC BEVERAGES.....	5-7
Sec. 5.02.001    Applicability.....	5-7
Sec. 5.02.002    Exceptions.....	5-7
Sec. 5.02.003    Zoning requirements .....	5-7
Sec. 5.02.004    Mixed beverage permit holders.....	5-7
Sec. 5.02.005    Procedure for obtaining permit or license; revocation of certificate of occupancy .....	5-8
Sec. 5.02.006    License and permit fees levied .....	5-9
Sec. 5.02.007    Payment of fees .....	5-9
Sec. 5.02.008    Cancellation of license or permit for failure to pay fees .....	5-9
Sec. 5.02.009    Refund of fee.....	5-9
Sec. 5.02.010    Package stores .....	5-9
Sec. 5.02.011    Sale near church, school or hospital.....	5-10
ARTICLE 5.03 HOME CHILD CARE.....	5-10
Division 1. Generally .....	5-10
Sec. 5.03.001    Definitions.....	5-10
Sec. 5.03.002    Penalty.....	5-11
Sec. 5.03.003    Enforcement .....	5-11
Sec. 5.03.004    Compliance with other regulations.....	5-11
Sec. 5.03.005    Maximum number of children permitted .....	5-12
Division 2. Permit .....	5-12
Sec. 5.03.031    Required .....	5-12
Sec. 5.03.032    Application; special permit for care of more than eight children.....	5-12
Sec. 5.03.033    Fee .....	5-13
Sec. 5.03.034    Issuance does not create vested rights.....	5-13
Sec. 5.03.035    Display .....	5-13
Sec. 5.03.036    Transfer .....	5-13
Sec. 5.03.037    Suspension.....	5-13
Sec. 5.03.038    Revocation.....	5-14
ARTICLE 5.04 HYDROCARBONS WELLS .....	5-14
Sec. 5.04.001    Purpose .....	5-14
Sec. 5.04.002    Definitions.....	5-15
Sec. 5.04.003    Operator's agent .....	5-18
Sec. 5.04.004    Well permit required; conditions.....	5-18
Sec. 5.04.005    Application for permit.....	5-21

Sec. 5.04.006 Permit classifications; specific requirements ..... 5-22

Sec. 5.04.007 Issuance of permit ..... 5-25

Sec. 5.04.008 Amendment of permit ..... 5-27

Sec. 5.04.009 Suspension or revocation of permit ..... 5-28

Sec. 5.04.010 Reports by operator ..... 5-29

Sec. 5.04.011 Bond or letter of credit; indemnity; insurance ..... 5-29

Sec. 5.04.012 Technical regulations ..... 5-35

Sec. 5.04.013 Fences, walls and screening ..... 5-42

Sec. 5.04.014 Clean-up and maintenance ..... 5-43

Sec. 5.04.015 Plugged and abandoned wells ..... 5-43

Sec. 5.04.016 Technical advisor ..... 5-44

Sec. 5.04.017 Appeals ..... 5-45

Sec. 5.04.018 Oil wells ..... 5-45

Sec. 5.04.019 Violations; penalty ..... 5-45

ARTICLE 5.05 SEXUALLY ORIENTED BUSINESSES ..... 5-46

Sec. 5.05.001 Purpose and intent ..... 5-46

Sec. 5.05.002 Definitions ..... 5-46

Sec. 5.05.003 Classification ..... 5-52

Sec. 5.05.004 Location ..... 5-52

Sec. 5.05.005 License required ..... 5-54

Sec. 5.05.006 License application and fees ..... 5-55

Sec. 5.05.007 Posting of signs concerning intent to locate ..... 5-59

Sec. 5.05.008 Issuance of license ..... 5-60

Sec. 5.05.009 Inspection ..... 5-62

Sec. 5.05.010 Suspension of license ..... 5-63

Sec. 5.05.011 Revocation of license ..... 5-63

Sec. 5.05.012 Appeals ..... 5-64

Sec. 5.05.013 Transfer of license ..... 5-65

Sec. 5.05.014 Additional regulations for adult motels ..... 5-65

Sec. 5.05.015 Additional regulations for exhibition of sexually explicit  
films, videos or live entertainment in viewing rooms ..... 5-65

Sec. 5.05.016 Additional regulations for escort agencies ..... 5-67

Sec. 5.05.017 Additional regulations for nude model studios ..... 5-67

Sec. 5.05.018 Sexual encounter centers prohibited ..... 5-68

Sec. 5.05.019 Additional regulations concerning public nudity  
and employees ..... 5-68

Sec. 5.05.020 Prohibition against minors in sexually oriented business ..... 5-68

Sec. 5.05.021 Hours of operation ..... 5-69

Sec. 5.05.022 Alcoholic beverage sales and consumption prohibited ..... 5-69

4Sec. 5.05.023 Signs and exterior portions ..... 5-69

Sec. 5.05.024 Injunction ..... 5-71

Sec. 5.05.025 Enforcement ..... 5-71

ARTICLE 5.06 ANNUAL SAFETY INSPECTION PROGRAM ..... 5-72

Sec. 5.06.001 Purpose ..... 5-72

Sec. 5.06.002 Subject operations ..... 5-72

Sec. 5.06.003 Noncompliance ..... 5-72

Sec. 5.06.004 Inspection fees ..... 5-73

Sec. 5.06.005 Penalty ..... 5-73

[Next page is 5-7.]



**ARTICLE 5.01 GENERAL PROVISIONS**

**(Reserved)**

**ARTICLE 5.02 ALCOHOLIC BEVERAGES\***

**Sec. 5.02.001     Applicability**

The storage, sale, possession or serving of any alcoholic beverages, when permitted by the laws of the state, shall be regulated and governed as provided herein. (Ordinance 2003-04-090, exh. A, sec. 4.1, adopted 5/13/03)

**Sec. 5.02.002     Exceptions**

This article shall not apply when the storage or serving of alcoholic beverages is strictly for consumption of the owners or occupants of the premises and their guests at no charge. (Ordinance 2003-04-090, exh. A, sec. 4.2, adopted 5/13/03)

**Sec. 5.02.003     Zoning requirements**

(a) The storage, possession, sale or serving of alcoholic beverages by anyone for the consumption, either on or off the premises, shall be illegal unless on property zoned specifically for that purpose as a special exception in accordance with the zoning ordinance. For the purpose of this article and the city’s zoning ordinance, the phrase “off the premises” shall mean “storing, selling or possessing beer, wine and liquor, as those beverages are described and defined in the Texas Alcoholic Beverage Code irrespective as to whether the subject property was zoned for beer only, or beer and wine only.”

(b) No person or entity shall engage in the business of storing, selling, possessing or serving any alcoholic beverage in the city unless the place of business of such person is located in the zoning district of the city providing for the storing, selling, possessing or serving of such alcoholic beverages.

(Ordinance 2003-04-090, exh. A, secs. 4.3, 4.4, adopted 5/13/03)

**Sec. 5.02.004     Mixed beverage permit holders**

(a) No individual or entity shall sell or serve alcoholic beverages for on-premises or off-premises consumption as holder of a mixed beverage permit separately or holder of a mixed beverage permit and a brew pub permit, except in a restaurant, cafe, cafeteria or eating establishment or on the premises of an individual or entity whose principal business is transporting of the general public and is operating pursuant to a certificate of public convenience and necessity issued by a federal or state regulatory body. “Restaurant, cafe, cafeteria or eating establishment” is herein defined as a business whose gross sales from food on an annual basis represent at least sixty percent (60%) of its total sales.

---

\* **State law references**—Local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code, sec. 109.31 et seq.; hours of sale and consumption, V.T.C.A., Alcoholic Beverage Code, ch. 105.

(b) All holders of such permits shall conduct their business in a manner that produces gross revenues on an annual basis from the sale of food in accordance with subsection (a) and state law.

(Ordinance 2003-04-090, exh. A, sec. 4.5, adopted 5/13/03; Ordinance adopting Code)

**State law references**—Mixed beverage permit, V.T.C.A., Alcoholic Beverage Code, ch. 28; food and beverage certificate, V.T.C.A., Alcoholic Beverage Code, sec. 28.18.

**Sec. 5.02.005 Procedure for obtaining permit or license; revocation of certificate of occupancy**

(a) Any person applying for a permit or license issued by the authority of the Texas Liquor Control Act, or a renewal of such permit or license, or to change the location of the place of business designated in such permit or license, shall deliver to the city secretary for filing, one copy of the appropriate forms prescribed by the state alcoholic beverage commission together with a scale drawing showing the proposed location in relation to streets, property lines, and the nearest churches, public schools or public hospitals. Such party shall also provide his name, current address, and addresses for the previous ten (10) years and a written statement as to the type and character of the proposed business. Said statement shall contain an affidavit that the information is true and correct.

(b) The city secretary shall forward such information and statement to the city official charged with the primary responsibility of enforcing the zoning laws of the city. The zoning official shall determine the use district in which the business is located, the type and character of the proposed business, the distance to the nearest churches, public schools and public hospitals and any deficiencies in the proposed use of the building. The zoning official shall then forward his findings back to the city secretary.

(c) If the applicant meets all the requirements of the zoning ordinance, this article, and all other applicable city ordinances, the city secretary shall certify on the application from the alcoholic beverage commission that the storage, sale, possession or serving of alcoholic beverages is not prohibited at the location of the applicant's place of business.

(d) In addition to the penal sanctions contained in this code, any party or entity that violates any section, subsection or provision of this article shall be subject to having their certificate of occupancy cancelled by the city upon receipt of written notice from the city specifying the violation. The notice requirement from the city shall be satisfied by placing said notice in the United States mail addressed to the last address provided the city by the entity or party that holds a certificate of occupancy. The notice from the city shall state that the certificate of occupancy shall be cancelled unless the party or entity corrects the violation within thirty (30) days of receipt of the notice except as hereinafter set out. However, a party or entity that submits an annual report pursuant to section 5.02.004 that does not satisfy the sixty (60) percent requirement relating to food sales shall have the alternative of filing monthly reports for a period of six months. The monthly reports shall contain the same information and be in the same form as the annual reports, except that said monthly reports shall reflect an accumulation of total sales for the preceding twelve (12) month period reflected in the annual report added to the monthly sales. The party or entity submitting the monthly reports shall be deemed to have satisfied the section 5.02.004 requirements if the monthly reports on or before the final sixth (6th) month reports filing

show total sales from food to be at least sixty percent (60%) of total sales. Failure to file the monthly reports or failure to satisfy the food sales requirements by the end of the six (6) month period shall result in cancellation of the certificate of occupancy without the necessity of further notice.

(Ordinance 2003-04-090, exh. A, sec. 4.6, adopted 5/13/03)

**Sec. 5.02.006 License and permit fees levied**

(a) There are hereby levied, pursuant to V.T.C.A., Alcoholic Beverage Code section 11.38, fees for a license or permit issued for the premises located within the city under the Alcoholic Beverage Code as set forth in the fee schedule in appendix A of this code.

(b) However, in each case, since the city does not have a large professional staff, if the actual costs of providing any such permit shall exceed these estimated amounts, then the applicant or permit holder shall be required to pay such additional costs upon the presentation of an itemized billing from the city.

(Ordinance 2003-04-090, exh. A, sec. 4.7, adopted 5/13/03; Ordinance adopting Code)

**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. 5.02.007 Payment of fees**

The fees required by this article shall be paid in advance for one (1) year. (Ordinance 2003-04-090, exh. A, sec. 4.8, adopted 5/13/03)

**Sec. 5.02.008 Cancellation of license or permit for failure to pay fees**

No person or entity shall engage in the business of storing, selling, possession or serving of alcoholic beverages without first having paid to the city the fee or fees [levied] by this article. It shall be the duty of the city attorney to petition the state alcoholic beverage commission to cancel the permit or license of any party or entity who shall engage in such business without first having paid the fees levied by this article. (Ordinance 2003-04-090, exh. A, sec. 4.9, adopted 5/13/03)

**Sec. 5.02.009 Refund of fee**

No refund of a fee paid the city under the terms of this article shall be made for any reason except when the permittee or licensee is prevented from continuing in business by reason of the result of a local option election or an amendment of the zoning regulations of the city concerning the property on which the place of business is situated. (Ordinance 2003-04-090, exh. A, sec. 4.10, adopted 5/13/03)

**Sec. 5.02.010 Package stores**

No individual or entity shall sell alcoholic beverages for off-premises consumption as holder of a package store permit, except in an alcohol package store in the city, [and] unless the place of business of such permit holder is located in the use district of the city, as established by zoning

regulations of the city, in which an alcoholic package store or the storing, selling, or possessing of such alcoholic beverages is permitted. (Ordinance 2003-04-090, exh. A, sec. 4.11, adopted 5/13/03)

**Sec. 5.02.011 Sale near church, school or hospital**

(a) It shall be unlawful for any person who is engaged in the business of selling alcoholic beverages to sell alcoholic beverages where the place of business of any such person is within three hundred (300) feet of any church, public school, or public hospital.

(b) Measurement of the distance between the place of business where alcoholic beverages are sold and a church or public hospital, public school or any premises where minors are prohibited from entering the premises under the Alcoholic Beverage Code shall be made in accordance with applicable state law.

(c) In conjunction with the zoning ordinance, the city council may allow a special permit to this section if it determines that the enforcement of the regulations in a particular instance is not in the best interests of the public, constitutes waste or inefficient use of the land or other resources, creates an undue hardship on the applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the city council determines, after consideration of the health, safety and welfare of the public and the equities of the situation, that the special permit is in the best interest of the community. No special permit may be granted hereunder except after a public hearing for which notice has been given to owners of real property within three hundred feet (300') of the location of said business seeking a special permit, to be measured from building to building, such notice to be given not less than (10) days before the date set for hearing, to all such owners who have rendered said property for county taxes as the ownership appears on the last approved Wise County tax roll.

(Ordinance 2003-04-090, exh. A, sec. 4.12, adopted 5/13/03; Ordinance adopting Code)

**State law reference**—Sale near church, school or hospital, V.T.C.A., Alcoholic Beverage Code, sec. 109.33.

**ARTICLE 5.03 HOME CHILD CARE\***

**Division 1. Generally**

**Sec. 5.03.001 Definitions**

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

Caregiver means a person at least 18 years old and able to care for children in a registered family home in accordance with state and/or city requirements.

Child care staff means any person whose primary duty includes direct care, supervision and guidance of children in a child care center.

---

\* **State law reference**—Regulation of certain facilities, homes, and agencies that provide child-care services, V.T.C.A., Human Resources Code, ch. 42.

Diet means the food in the registered family home which is nutritious and served in variety and amounts adequate to ensure growth and development.

Health requirements means immunization as recommended by the American Academy of Pediatrics against diphtheria, tetanus, pertussis (DPT), poliomyelitis and measles, mumps and rubella, and necessary documentation required by the city health department and/or state.

Infant means any child 17 months of age and under.

Permit means a complete document issued to the approved applicant of a registered family home authorizing operation at a specified location in accordance with the provisions of this article.

Registered family home means a private residence permitted by the city as an operation that regularly provides care for children in a private residence.

Toddler means any child between 18 and 24 months of age.

(Ordinance 2007-10-125, sec. 1, adopted 7/17/09)

#### **Sec. 5.03.002 Penalty**

Except as stated otherwise, violations of this article are punishable as provided in section 1.01.009. (Ordinance 2007-10-125, sec. 2, adopted 7/17/09)

#### **Sec. 5.03.003 Enforcement**

The director of health or designated representative shall have the authority and responsibility to enforce the provisions of this article and the state statutes when applicable regarding registered family homes, which are hereby adopted.

- (1) Authority to inspect or visit. The director of health or designated representative shall have the authority to inspect or visit all such registered family homes at all reasonable times and as he determines necessary to ascertain if same are being conducted in conformity with this article or if any conditions exist therein which require correction. An inspection shall be made at least once each year.
- (2) Authority to give notice of violation or requirements to comply. The director of health shall have the authority to give written notice, on the premises, to the operator of a registered family home, pertaining to violation of and/or requirements to comply with the provisions of this article.

(Ordinance 2007-10-125, sec. 3, adopted 7/17/09)

#### **Sec. 5.03.004 Compliance with other regulations**

The applicant for a permit under this article is responsible for complying with all zoning, building, fire and health ordinances of the city. (Ordinance 2007-10-125, sec. 4, adopted 7/17/09)

**Sec. 5.03.005 Maximum number of children permitted**

(a) The maximum number of children that a family home may provide care for in the caregiver’s own residence is not more than six children under 14 years of age, including the caregiver’s own children, and after school hours two additional elementary school siblings of the children given care, but the total number of children, including the caregiver’s own, does not exceed six during school hours and does not exceed eight at any other given time, unless otherwise issued a special permit as set forth in this article.

(b) In determining how many children, according to age, [are] cared for in the family home at one time, all children are counted including the caregiver’s own. The number of children that may be cared for at one time is shown by the following chart:

Preschoolers		School Age Children 5 - 13 years	Maximum Allowed
0 - 17 months	18 months - 4 years		
4	0	2	6
4	1	1	6
4	2	0	6
3	0	4	7
3	1	3	7
3	2	2	7
3	3	1	7
2	0	6	8
2	1	5	8
2	2	4	8
2	3	3	8
2	4	2	8
1	5	2	8
0	6	2	8
0	0	8	8

(Ordinance 2007-10-125, sec. 5, adopted 7/17/09)

**Secs. 5.03.006–5.03.030 Reserved**

**Division 2. Permit**

**Sec. 5.03.031 Required**

No person shall operate a registered family home without a permit issued under this article. (Ordinance 2007-10-125, sec. 6, adopted 7/17/09)

**Sec. 5.03.032 Application; special permit for care of more than eight children**

(a) Any person desiring to operate a registered family home operation within the city shall submit a written application provided by the director of health or designated representative.

(b) The application shall state the name, address and telephone number of the operator. A general statement as to past experience in child care activities shall be provided by the applicant.

(c) In addition to submission of an application to the director of health or his designated representative, any person desiring to operate a registered family home that regularly provides care in the caregiver’s own residence for more than eight children, but not more than 12 children, under 14 years of age, including the caregiver’s own children, shall make application for a special permit from the city council. The city council shall conduct a public hearing and, before such hearing, send written notice of the special permit application to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property for which the special permit applies. The decision of the city council as to the issuance of a special permit hereunder shall be final. A special permit issued hereunder shall be subject to the enforcement section of this article.

(Ordinance 2007-10-125, sec. 7, adopted 7/17/09)

**Sec. 5.03.033 Fee**

The permit fee for a registered family home shall be as set forth in the fee schedule in appendix A of this code and shall be due and payable at the time such permit is issued and annually thereafter. The fee shall be paid to the department of environmental health of the city. No refund of any permit fee paid hereunder shall be made by the city for any cause. (Ordinance 2007-10-125, sec. 8, adopted 7/17/09; Ordinance adopting Code)

**Sec. 5.03.034 Issuance does not create vested rights**

No permit issued under this division shall be deemed to grant a vested or property right, but such permit shall remain subject to the terms and provisions of this article and subject to such future regulations as shall be promulgated by the city council by ordinance and any investment made by an applicant or permittee shall be made subject to this article. (Ordinance 2007-10-125, sec. 9, adopted 7/17/09)

**Sec. 5.03.035 Display**

All permits, when granted and issued under this division, shall be displayed in a place readily accessible for the inspection by any city official. (Ordinance 2007-10-125, sec. 10, adopted 7/17/09)

**Sec. 5.03.036 Transfer**

Permits issued under this division shall be deemed personal to the permittee and shall not be assignable and may not be transferred from one location or from one place of business to another. (Ordinance 2007-10-125, sec. 11, adopted 7/17/09)

**Sec. 5.03.037 Suspension**

The director of health shall have the authority after giving written notice to suspend any permit if he ascertains violations of immediate danger regarding the premises, toilet facilities, sanitation, food preparation, storage and handling, storage of chemicals or any harmful solution, child neglect, potential for injury or death, infectious diseases, hazards with outdoor play areas, and failure to comply with applicable city ordinances. Suspension of the permit shall require the

operator to cease all activities immediately and to bring the registered family home into compliance with directives from the environmental health department within a prescribed time period. Failure to rectify designated problems shall lead to revocation of the permit. (Ordinance 2007-10-125, sec. 12, adopted 7/17/09)

#### **Sec. 5.03.038 Revocation**

(a) Procedure. The director of health shall have the authority to revoke any permit if he ascertains failure to comply with the provisions of this article by the permittee, provided that the following procedure is followed:

- (1) The director of health, in writing, by certified mail, shall call to the attention of the permittee the failure to comply with the provisions of this article and shall specify a reasonable time, not to exceed one year, by which it is probable that the permittee can remedy such failure.
- (2) If the permittee fails to comply with the provisions of this article within the time specified, such director shall give notice in writing to the operator, permittee, manager or other persons in control of registered family home that the permit issued is revoked.

(b) Appeals. The notice of revocation of a permit shall become final after the expiration of ten days from the date of service upon the permittee, operator, manager or other person in charge of the registered family home, unless on or before the expiration of ten calendar days the permittee shall file with the city secretary a written appeal addressed to the city administrator or designated representative in which it is requested that the city administrator or designated representative grant the permittee a hearing upon the question of whether or not the permit shall be revoked. Such appeal, if made and filed as prescribed in this section, shall stay the revocation of the permit until such time as the city administrator or designated representative shall grant a hearing and make a final adjudication. Such a hearing shall be held within ten calendar days after the date of filing of such appeal, and such action and judgment of the city administrator or designated representative, after hearing all the evidence and facts, shall be final and conclusive as to all parties.

(Ordinance 2007-10-125, sec. 13, adopted 7/17/09; Ordinance adopting Code)

### **ARTICLE 5.04 HYDROCARBONS WELLS\***

#### **Sec. 5.04.001 Purpose**

The exploration, development and production of hydrocarbons in the city is an activity which necessitates reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to peaceably enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this article to establish reasonable and uniform limitations, safeguards and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of hydrocarbons and other substances produced in association

---

\* **State law references**—Oil and gas, V.T.C.A., Natural Resources Code, chs. 52, 81 et seq.; lease of municipal oil, gas or mineral land, V.T.C.A., Local Government Code, sec. 253.005; municipal regulation of exploration and development of mineral interests, V.T.C.A., Natural Resources Code, sec. 92.007.



with hydrocarbons within the city to protect the health, safety and general welfare of the public; minimize the potential impact to property and mineral rights owners; protect the quality of the environment; and encourage the orderly production of available mineral resources. (Ordinance 2003-02-088, sec. 1, adopted 4/22/03)

#### **Sec. 5.04.002 Definitions**

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this article shall have the meanings customarily attributable thereto by prudent and reasonable gas industry operators. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment. As defined by the state railroad commission, and includes the plugging of the well and the restoration of any well site as required by this article.

Ambient noise level means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

Blowout preventer means a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe, or other tubular goods which completely close the top of the casing and are designed for preventing blowouts.

Building means any structure used or intended for supporting or sheltering any use or occupancy. The term “building” shall be construed as if followed by the words “or portions thereof.”

Cathodic protection means an electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection current is supplied by sacrificial anode materials or by an impressed current system.

Cessation of drilling activities means the time when the blowout protectors (BOPs) are removed or otherwise rendered inoperable and/or there are no further activities to trip drill pipe, casing or insert other tools into or out of the hole.

City attorney means the city attorney of the City of New Fairview.

City regulated pipelines means those pipelines within the city that under federal and state rules and regulations are not exempt from city regulations and ordinances regarding mapping, inventorying, locating or relocating of pipelines, including, but not limited to, pipelines over, under, along or across a public street or alley, pipelines from the well to the first point of custody transfer or in private residential areas within the boundaries of the city.

Closed loop mud system means a system utilized while drilling so that reserve pits are not used and instead steel bins are used to collect all drilling waste.

Commencement of drilling activities means the reflection of either “spud well” or “nipple up” the blowout protectors (BOPs) by the drilling contractors on the IADC-API daily drilling report form maintained by the operator’s tool pusher on the pad site.

Commission means the state railroad commission and all state rules.

Completion of drilling, re-drilling and reworking means the date the work is completed for the drilling, re-drilling or reworking and the crew is released by completing their work or contract or by their employer.

Daytime means the period from 6:00 a.m. to 7:00 p.m.

Decibel (dB) means a unit for measuring the intensity of a sound/noise and is equal to ten times the logarithm to the base ten of the ratio of the measured sound pressure squared to a reference pressure which is 20 micropascals.

Demobilization means those activities when the drilling has ceased and the rig equipment and related pad site equipment is being dismantled for the purpose of moving off the drill pad site.

Derrick means any portable framework, tower, mast and/or structure which is required or used in connection with drilling or reworking a well for the production of gas.

Drilling means digging or boring a new well for the purpose of exploring for, developing or producing gas or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling equipment means the derrick, together with all parts of and appurtenances to such structure, and every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.

Drilling operations means drilling with drill pipe and bit, running casing, circulating mud and fluids, tripping tools and setting production casing/tubing.

Drill site means the premises used during the drilling or reworking of a well or wells located there and subsequent life of a well or wells or any associated operation.

Exploration means geologic or geophysical activities, including seismic surveys, related to the search for hydrocarbons or other subsurface hydrocarbons.

Fire prevention means any state or federal approved fire apparatus.

Hydrocarbons means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at a standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural hydrocarbons.

Hydrocarbons well means any well drilled, to be drilled, or used for the intended or actual production of natural hydrocarbons.

Inspector means the hydrocarbons inspector designated by the city.

Oil means any liquid hydrocarbons, regardless of specific gravity, capable of being produced from any well in liquid form at the well by ordinary production methods and which is not the result of condensation of hydrocarbons after it leaves the reservoir and is thereby defined as condensate.

Oil well means any well drilled, to be drilled, or used for the intended or actual production of liquid petroleum or petroleum products, or for the intended or actual disposal of waste liquids, including solutions and liquids containing solids in suspension, produced from any such well.

Operation site means the area used for development and production and all operational activities associated with hydrocarbons after drilling activities are complete.

Operator means, for each well, the person listed on the railroad commission Form W-1 or Form P-4 for a hydrocarbons well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the operator, as herein defined, is not the lessee under a hydrocarbons lease of any premises affected by the provisions of this article, then such lessee shall also be deemed to be an operator. In the event that there is no hydrocarbons lease relating to any premises affected by this article, the owner of the fee mineral estate in the premises shall be deemed an operator.

Person means both the singular and the plural and means a natural person, corporation, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind.

Primary residence means a house, duplex, apartment, townhouse, condominium, mobile home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a hydrocarbons well permit is filed with the city hall representative/inspector which was approved/designated by the city council.

Public building means all buildings used or designed to and intended to be used for the purpose of assembly of persons for such purposes as deliberation, entertainment, amusement, or health care. Public buildings include, but shall not be limited to, theaters, assembly halls, auditoriums, armories, mortuary chapels, dance halls, exhibition halls, museums, gymnasiums, bowling lanes, libraries, skating rinks, courtrooms, restaurants, and hospitals.

Public park means any land area dedicated to and/or maintained by the city for traditional park-like recreational purposes, but shall not include privately owned amusement parks or privately owned or privately managed golf courses.

Re-drill means re-completion of an existing well by deepening or side tract [sidetrack] operations extending more than one hundred fifty (150) feet from the existing well bore.

Religious institution means any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Reworking mean re-completion of [or] re-entry of an existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than one hundred fifty (150) feet from the existing well bore, or replacement of well liners or casings.

Right-of-way means public rights-of-way including streets, easements and other property within the city and which is dedicated to the use and benefit of the public.

School means any public and private, primary and secondary educational facilities providing education up through and including twelfth grade level and any licensed day care center, meaning a facility licensed by the state that provides care, training, education, custody, treatment or supervision for more than six children under 14 years of age, and for less than 24 hours per day.

Special permit means a permit required if the proposed well is to be located within six hundred (600) feet of a residence, religious institution, public building, hospital building, school and public park.

Standard hydrocarbons permit means anything not covered under special permit.

Street means any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way.

Tank means a container, covered or uncovered, used in conjunction with the drilling or production of hydrocarbons or other hydrocarbons for holding or storing fluids.

Technical advisor means such person(s) familiar with and educated in the hydrocarbons industry or the law as it relates to hydrocarbons matters who may be retained from time to time by the city.

Under-balanced drilling means drilling a well bore with hydrostatic fluid column less than the anticipated or actual formation pressure as calculated or measured at the formation depth.

Well means a hole or holes, bore or bores, to any horizon, formation, or strata, for the purpose of producing hydrocarbons, liquid hydrocarbon, brine water, sulphur water, or for use as an injection well for secondary recovery, disposal or production of hydrocarbons, or other hydrocarbons from the earth.

(Ordinance 2003-02-088, sec. 2, adopted 4/22/03; Ordinance adopting Code)

#### **Sec. 5.04.003 Operator's agent**

Every operator of any well shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this article may be served in person or by registered mail or certified mail. Every operator so designating such agent shall within ten (10) days notify the city secretary in writing of any change in such agent or such mailing address unless operations within the city are discontinued. (Ordinance 2003-02-088, sec. 3, adopted 4/22/03)

#### **Sec. 5.04.004 Well permit required; conditions**

(a) Permit required. A person wanting to engage in and operate in hydrocarbons production activities shall apply for and obtain a hydrocarbons well permit under this article and shall indicate what type of hydrocarbons well permit is requested. It shall be unlawful for any person acting either for himself or acting as an agent, employee, independent contractor, or servant for any person to drill any well, to assist in any way in the site preparation, re-drilling, fracturing or operation of any such well or to conduct any related activity related to the production of

hydrocarbons without first obtaining a hydrocarbons well permit issued by the city in accordance with this article. Such activities include but are not limited to reworking, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing. A permit shall not be required for seismic surveys.

(b) Permit required for each well; multiple wells on same tract of land. The operator must apply for and obtain a hydrocarbons well permit for the drilling, re-drilling, deepening, re-entering, activating or converting of each well. The operator may apply for and obtain a “multiple” hydrocarbons well permit for more than one well if multiple wells are located on the same tract of land. The number of wells requested shall multiply any applicable fees.

(c) Re-entering and drilling abandoned well. A hydrocarbons well permit shall not constitute authority for the re-entering and drilling of an abandoned well. An operator shall obtain a new hydrocarbons well permit in accordance with the provisions of this article if the operator is re-entering and drilling an abandoned well.

(d) Rights granted; new or supplemental permit. When a hydrocarbons well permit has been issued to the operator for the drilling, re-drilling, deepening, re-entering, activating or converting of a well, such hydrocarbons well permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, repair, reworking, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well as relates to that specific well and the anticipated producing intervals as requested in the permit application; provided, however, that a new or supplemental permit shall be obtained before such well may be reworked for purposes of re-drilling, deepening or converting such well to a depth or use other than that set forth in the then current permit for such well.

(e) Notice of proposed activities; fracture stimulation operations.

- (1) Any person who intends to rework a permitted well using a drilling rig, to fracture stimulate a permitted well after initial completion or to conduct seismic surveys or other exploration activities shall give written notice to the city council no less than ten (10) days before the activities begin. The notice must identify where the activities will be conducted and must describe the activities in detail, including whether explosive charges will be used, the duration of the activities and the time the activities will be conducted.
- (2) The notice must also provide the address and 24-hour phone number of the person conducting the activities. If requested by the city council, the person conducting the activities will post a sign on the property giving the public notice of the activities, including the name, address and 24-hour phone number of the person conducting the activities. If the city council determines that an inspection by a hydrocarbons inspector is necessary, the operator will pay the city for the inspection.
- (3) The following requirements shall apply to all fracture stimulation operations performed on a well within six hundred (600) feet of an occupied residence:
  - (A) At least ten (10) days before operations are commenced, the operator shall post a sign at the entrance of the well site advising the public of the date the operations will commence;

- (B) “Flow back” operations to recover fluids used during fracture stimulation shall be performed during daylight hours only unless the city council approves such operations during non-daylight hours;
  - (C) A watchman shall be required at all times during such operations; and
  - (D) At no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.
- (f) Time limit for commencing drilling.
- (1) A hydrocarbons well permit shall automatically terminate, unless extended, if drilling is not commenced within one hundred eighty (180) days from the date of the issuance of the hydrocarbons well permit. Drilling must commence within one hundred eighty (180) days from the date of the issuance of the hydrocarbons well permit on at least one well under a “blanket permit,” as described in subsection (b) of this section, in order to maintain the validity of the hydrocarbons well permit for the multiple wells.
  - (2) A hydrocarbons well permit may be extended by the city council for an additional one hundred eighty (180) [days] upon request by the operator and proof that the classification of the requested hydrocarbons well permit for such location has not changed.
- (g) Other permits. The hydrocarbons well permits required by this article are in addition to and are not in lieu of any permit which may be required by any other provision of this code or by any other governmental agency.
- (h) Existing wells. No additional hydrocarbons well permit or filing fees shall be required for:
- (1) Any wells, existing, previously permitted or approved by the city, within the corporate limits of the city on the effective date of this article; or
  - (2) Any wells which drilling has commenced on the effective date of this article.
- (i) Drilling in public park. No hydrocarbons well permit shall be issued for any well to be drilled within any public park without the prior consent of the city council. The city council shall review the insurance and security requirement on an individual basis prior to issuing the permit.
- (j) Drilling in floodway. No hydrocarbons well permit shall be issued for any well to be drilled within any floodway without prior consent of the city council.
- (k) Drilling on city-owned property. No hydrocarbons well permit shall be issued for any well to be drilled on city-owned property without the prior consent of the city council.

(l) Acceptance of regulations. By acceptance of a hydrocarbons well permit issued pursuant to this article, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this article. The terms of this article shall be deemed to be incorporated in any hydrocarbons well permit issued pursuant to this article with the same force and effect as if this article was set forth verbatim in such hydrocarbons well permit.

(Ordinance 2003-02-088, sec. 4, adopted 4/22/03)

**Sec. 5.04.005 Application for permit**

(a) Every application for a hydrocarbons well permit issued pursuant to this article shall be in writing, signed by the operator, or some person duly authorized to sign on his behalf, and filed with the city.

(b) Every application shall be accompanied by a permit fee as set forth in the fee schedule in appendix A of this code. The application shall include the following information:

- (1) The date of the application and type of hydrocarbons well permit requested.
- (2) An accurate legal description of the lease property to be used for the hydrocarbons operation, the parcel and production unit and the name of the geologic formation as used by the commission. Property recorded by plat should reference subdivision, block and lot number.
- (3) Map showing the proposed transportation route and road for equipment, chemicals or waste products used or produced by the hydrocarbons operation.
- (4) Proposed well name.
- (5) Surface owner name(s) and address(es) of the lease property.
- (6) Mineral lessee name and address.
- (7) Operator/applicant name and address and, if the operator is a corporation, the state of incorporation, and if the operator is a partnership, the names and addresses of the general partners.
- (8) Name and address of the individual designated to receive notice.
- (9) Name of representative with supervisory authority over all hydrocarbons operation site activities and a 24-hour phone number.
- (10) Location and description of all improvements and structures within six hundred (600) feet.
- (11) Owner and address of each parcel of property within six hundred (600) feet.
- (12) A site plan of the proposed operation site showing the location of all improvements and equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, tanks, pipelines, compressors, separators and storage sheds.

- (13) The name, address and 24-hour phone number of the person to be notified in case of an emergency.
- (14) The exact and correct acreage and number of wells, if applicable, included in the hydrocarbons well permit application.
- (15) Copies of all reports required by the commission.
- (16) A signed road maintenance agreement supplied by the city that provides that the operator shall repair, at his own expense, any damage to roads, streets, or highways caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, and operation of hydrocarbons wells.
- (17) A description of public utilities required during drilling and operation.
- (18) A description of water source to be used during drilling.
- (19) A copy of the approved commission permit to drill together with attachments and survey plats which are applicable to the drill and operation sites.
- (20) The projected depth of the well and the depth at which the slant or horizontal portion (if applicable) of the well will begin along with the proposed vertical and horizontal plan view of the slant or horizontal well bore path (if such are not shown on the commission permit).
- (21) A copy of the stormwater pollution prevention plan if required by the Environmental Protection Agency. A copy of the notice of intent shall be submitted to the city seven (7) days prior to the commencement of any on-site activity.
- (22) A copy of the determination by the state commission on environmental quality of the depth of usable quality groundwater.
- (23) Evidence of the insurance and security requirement under this article.
- (24) A statement, under oath, signed by the operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the operator or designated representative, true and correct.
- (25) All required application and hydrocarbons well permit fees.

(Ordinance 2003-02-088, sec. 5, adopted 4/22/03; Ordinance adopting Code)

**Sec. 5.04.006 Permit classifications; specific requirements**

(a) Special hydrocarbons well permit.

- (1) Applicability. A special hydrocarbons well permit shall be required if the proposed well is to be located within six hundred (600) feet of a residence, religious institution, public building, hospital building, school or public park. This provision applies to



any residence, religious institution, public building, hospital building, school or public park for which a building permit has been issued on the date the application for permit is filed with the city.

- (A) Measurement of distance. For the purpose of a special hydrocarbons well permit the measurement of the six hundred (600) foot distance shall be made from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building.
  - (B) Posting of sign. At least ten (10) days prior to the date of filing with the city an application for a hydrocarbons well permit under this article, the operator shall erect at least one (1) sign, no less than three feet by three feet, upon the premises upon which a hydrocarbons well permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property.
    - (i) The sign(s) shall substantially indicate that a hydrocarbons well permit to drill for hydrocarbons has been requested and shall further set forth that additional information can be acquired by telephoning the operator at the number indicated on the sign.
    - (ii) The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this article.
    - (iii) Any sign(s) shall be removed subsequent to final action by the city council.
- (2) Criteria for approval. The city council shall review the application and any other related information. The city council shall consider the following in deciding whether to grant a hydrocarbons well permit:
- (A) Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there;
  - (B) Whether the drilling of such wells would conflict with the orderly growth and development of the city;
  - (C) Whether there are other alternative well site locations;
  - (D) Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the hydrocarbons well permit conditions to be imposed;
  - (E) Whether there is accessible access for the city fire personnel and firefighting equipment; and

- (F) Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the hydrocarbons well permit conditions are reasonable and justified, balancing the following factors:
- (i) The right of the owner(s) of the mineral estate to explore, develop, and produce the minerals; and
  - (ii) The availability of alternative drill sites.
- (G) No drilling for hydrocarbons shall be conducted within one thousand (1,000) feet of Highway 287, FM 407 and County Road 2264.
- (3) Landscaping. Landscaping as determined by the city council at the time of application.
- (4) Fencing for special hydrocarbons well permit. Gates requirements and other fencing requirements as outlined in section 5.04.013 of this article shall also be required.
- (5) Vehicle routes for special hydrocarbons well permit. Vehicles associated with drilling and/or production shall adhere to all city codes and ordinances unless entering into road maintenance agreement. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route means [sic] any street or highway so designated by the city council for the use by any commercial motor vehicle, truck-tractor, trailer, semi-trailer, or any combination thereof.
- (6) Noise restrictions for special hydrocarbons well permit.
- (A) No drilling, fracing, producing or other operations shall produce a sound level greater than 90 dB(A) when measured at a distance of five hundred (500) feet from the production equipment in question. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions, four (4) feet above ground level, at a distance of five hundred (500) feet from the production equipment.
  - (B) No person shall operate or permit to be operated in connection with the operation of a producing well any engine, compressor or motor-driven machinery or any type which creates a sound level greater than 78 dB(A) when measured at a distance of six hundred (600) feet from the well site. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions at a distance of six hundred (600) feet from the well site.
  - (C) Sound level measurements shall be made with a sound level meter conforming, as a minimum, to the requirements of the American National Standards Institute.
  - (D) If sound levels exceed the dB(A) levels cited in subsections (A) and (B) of this subsection, the authorized city personnel may require sound-reducing mufflers.

- (7) Tank specifications for standard hydrocarbons well permit. All tanks and permanent structures shall conform to the American Petroleum Institute (API) specifications unless other specifications are approved by the city council. The top of the tanks shall be no higher than eight (8) feet above the terrain surrounding the tanks. All tanks shall be set back pursuant to the standards of the commission and the National Fire Protection Association, but in all cases shall be at least twenty-five (25) feet from any public right-of-way or property line.
- (b) Standard hydrocarbons well permits.
- (1) Applicability. A standard hydrocarbons well permit shall be required for anything not covered under special hydrocarbons well permit.
- (2) Notice for standard hydrocarbons well permit.
- (A) At least ten (10) days prior to the date of filing an application for a standard hydrocarbons well permit under this article with the city, notice is to be posted at the city hall. The notice shall read as follows:
- Notice is hereby given that, acting under and pursuant to the Ordinances of the City of New Fairview, Texas on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ will file with the Authorized City Personnel and/or City Council of the City of New Fairview, an application to drill, complete and operate a well for Hydrocarbons upon property located at \_\_\_\_\_, Wise County, New Fairview, Texas, Lot No. \_\_\_\_\_ Block No. \_\_\_\_\_, or \_\_\_\_\_ City of New Fairview, more particularly shown on the map of record in Volume \_\_\_\_\_, Page \_\_\_\_\_, Plat records of Wise County, Texas, or per Tax Tract Number \_\_\_\_\_, Wise County Texas.
- (B) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.
- (3) Fencing for standard hydrocarbons well permit. Gates requirements and other fencing requirements as outlined in section 5.04.013 of this article shall also be required.
- (4) Vehicle routes for standard hydrocarbons well permit. Vehicles associated with drilling and/or production shall adhere to all city codes and ordinances unless entering into a road maintenance agreement. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route means [sic] any street or highway so designated by the city council for the use by any commercial motor vehicle, truck-tractor, trailer, semi-trailer, or any combination thereof.

(Ordinance 2003-02-088, sec. 6, adopted 4/22/03; Ordinance 2003-09-095 adopted 1/13/04)

**Sec. 5.04.007 Issuance of permit**

- (a) It is the responsibility of the authorized city personnel to review and approve or disapprove all applications for hydrocarbons well drilling permits based on the criteria established by this article. The authorized city personnel, within thirty (30) days after the filing of a completed application and remittance of all fees, insurance and security per the requirements of this article

for a hydrocarbons well permit, shall determine whether or not the application complies in all respects with [this article and] the facility to be installed is in compliance with the distance requirements for the requested hydrocarbons well permit on the date the completed application is received by the authorized city personnel.

(b) The provisions of this article shall apply to any dwellings or buildings for which an application for a building permit has been submitted on the date the application for a hydrocarbons well permit is filed with the authorized city personnel.

(c) If all the requirements of this article are met, the authorized city personnel shall issue a hydrocarbons well permit for the drilling of the well or the installation of the facilities applied for.

(d) If the authorized city personnel denies a standard hydrocarbons well permit application for reasons other than lack of required distance as set out in this article for the requested hydrocarbons well permit, he shall notify the operator in writing of such denial stating the reasons for the denial. Within thirty (30) days of the date of the written decision of the authorized city personnel to deny the hydrocarbons well permit, the operator may: (i) cure those conditions that caused the denial and resubmit the application to the authorized city personnel for approval and issuance of the hydrocarbons well permit, or (ii) file an appeal to the city council under the provisions outlined in this article pursuant to section 5.04.017 (Appeals) of this article.

(e) If the authorized city personnel determines that the operator has complied with all of the provisions of this article but that the proposed drill site does not comply with the distance requirements of this article under the requested standard hydrocarbons well permit, the authorized city personnel shall notify the operator. The operator may revise the permit to comply with the standard hydrocarbons well permit or the authorized city personnel shall notify the city secretary and the city secretary shall place the request for a hydrocarbons well permit under this article on the city council agenda for public hearing within the next forty-five (45) days.

(f) Not less than fifteen (15) days prior to the date set for the hearing by the city council, the authorized city personnel shall:

- (1) Notify the operator and all owners of real property as the ownership appears on the last certified tax roll of the applicable city or county appraisal district within the applicable distance of the proposed well location and hearing per the requested hydrocarbons well permit. Such notice shall be served by depositing the same, postage paid, in the United States [mail];
- (2) The erection an/or continued maintenance of any such sign shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this article.

(g) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

(h) Following the public hearing, the city council may grant such hydrocarbons well permit upon such terms and conditions as it determines to be necessary to protect the public health and safety. The city council may require changes in the operations, plan, design, layout, fencing, screening, lighting, or other matters reasonably required in the interest of the public.

(i) In making its decision, the city council shall have the power and authority to refuse any hydrocarbons well permit to drill any well at any particular location within the city, when by reason of such particular location would be injurious to the health, safety or welfare of the inhabitants in the immediate area of the city.

(j) If the operator elects not to accept the hydrocarbons well permit under the terms and conditions imposed by the city council and wishes to withdraw his application, the operator must notify the authorized city personnel in writing of his decision.

(Ordinance 2003-02-088, sec. 7, adopted 4/22/03)

**Sec. 5.04.008 Amendment of permit**

(a) An operator may submit an application to the authorized city personnel to amend an existing hydrocarbons well permit to commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) of the existing hydrocarbons well permit, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing hydrocarbons well permit, or to otherwise amend the existing hydrocarbons well permit.

(b) Applications for amended hydrocarbons well permits shall be in writing, shall be signed by the operator, and shall include the following:

- (1) The application fee as set by city ordinance;
- (2) A description of the proposed amendments;
- (3) Any changes to the information submitted with the application for the existing hydrocarbons well permit (if such information has not previously been provided to the city);
- (4) Such additional information as is reasonably required by the authorized city personnel to demonstrate compliance with the applicable hydrocarbons well permit; and
- (5) Such additional information as is reasonably required by the authorized city personnel to prevent imminent destruction of property or injury to persons.

(c) All applications for amended hydrocarbons well permits shall be filed with the city secretary and given to authorized city personnel and/or the city council for review. Incomplete applications may be returned to the applicant, in which case the city shall provide a written explanation of the deficiencies; however, the city shall retain the application fee. The city may return any application as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator.

(d) If the activities proposed by the amendment are not materially different from the activities covered by the existing hydrocarbons well permit, and if the proposed activities are in conformance with the applicable hydrocarbons well permit, then the authorized city personnel shall approve the amendment within ten (10) days after the application is filed.

(e) If the activities proposed by the amendment are materially different from the activities covered by the existing hydrocarbons well permit, and if the proposed activities are in conformance with the applicable hydrocarbons well permit, then the authorized city personnel shall approve the amendment within thirty (30) days after the application is filed. If, however, the activities proposed by the amendment are materially different and, in the judgment of the authorized city personnel, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing hydrocarbons well permit or that was not otherwise taken into consideration by the existing hydrocarbons well permit, the authorized city personnel may require the amendment to be processed as a new hydrocarbons well permit application.

(f) The failure of the authorized city personnel to review and issue an amended hydrocarbons well permit within the time limits specified above shall not cause the application for the amended hydrocarbons well permit to be deemed approved.

(g) The decision of the authorized city personnel to deny an amendment to a hydrocarbons well permit shall be provided to the operator in writing within ten (10) days after the decision, including an explanation of the basis for the decision. The operator may appeal any such denial to the city council.

(Ordinance 2003-02-088, sec. 8, adopted 4/22/03)

**Sec. 5.04.009 Suspension or revocation of permit**

(a) If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a hydrocarbons well permit (including any requirement incorporated by reference as part of the hydrocarbons well permit), the authorized city personnel and/or city council shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than thirty (30) days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this article.

(b) If the operator fails to correct the noncompliance within thirty (30) days from the date of the notice, the authorized city personnel may suspend or revoke the hydrocarbons well permit pursuant to the provisions of this article.

(c) No person shall carry on any operations performed under the terms of the hydrocarbons well permit issued under this article during any period of any hydrocarbons well permit suspension or revocation or pending a review of the decision or order of the city in suspending or revoking the hydrocarbons well permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the hydrocarbons well permit was ordered for the safety of persons or as required by the commission.

(d) If the operator does not cure the noncompliance within the time specified in this article, the authorized city personnel, upon written notice to the operator, may notify the commission and request that the commission take any appropriate action.

(e) The operator may, within thirty (30) days of the date of the decision of the authorized city personnel in writing to suspend or revoke a hydrocarbons well permit, file an appeal to the city council under the provisions outlined in this article pursuant to section 5.04.017 (Appeals) of this article.

(f) If an application for a hydrocarbons well permit is denied by the authorized city personnel, nothing herein contained shall prevent a new permit application from being submitted to the authorized city personnel and/or city council for the same well.

(Ordinance 2003-02-088, sec. 9, adopted 4/22/03)

**Sec. 5.04.010 Reports by operator**

(a) The operator shall notify the authorized city personnel of any changes to the following information within one business week after the change occurs:

- (1) The name, address, and phone number of the operator;
- (2) The name, address, and phone number of the person designated to receive notices from the city (which person must be a resident of Texas that can be served in person or by registered or certified mail); and
- (3) The operator’s emergency action response Plan 9 including “drive-to maps” from public rights-of-way to each drill site.

(b) The operator shall notify the authorized city personnel and/or city council of any change to the name, address, and 24-hour phone number of the person(s) with supervisory authority over drilling or operations activities within one business day.

(c) The operator shall provide a copy of any “incident reports” or written complaints submitted to the railroad commission with thirty (30) days after the operator has notice of the existence of such reports or complaints.

(Ordinance 2003-02-088, sec. 10, adopted 4/22/03)

**Sec. 5.04.011 Bond or letter of credit; indemnity; insurance**

(a) General requirements. The operator shall be required to:

- (1) Comply with the terms and conditions of this article and the hydrocarbons well permit issued hereunder.
- (2) Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed, or occurring in the operations, and after abandonment or completion grade, level and restore such property to the same surface conditions as nearly as possible as existed before operations.

- (3) Indemnify and hold harmless the city, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by the operator under a hydrocarbons well permit:
    - (A) Where such injuries, death or damages are caused by the operator's sole negligence or the joint negligence of the operator and any other person or entity; and
    - (B) Regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of the operator.
  - (4) Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the hydrocarbons well permit.
  - (5) Promptly restore to its former condition any public property damaged by the hydrocarbons operation.
- (b) Bond or irrevocable letter of credit. Prior to the issuance of a hydrocarbons well permit the operator shall provide the city secretary with a security instrument in the form of a bond or an irrevocable letter of credit as follows:
- (1) Bond. A bond shall be executed by a reliable bonding or insurance institution authorized to do business in Texas, acceptable to the city. The bond shall become effective on or before the date the hydrocarbons well permit is issued and remain in force and effect for at least a period of six (6) months after the expiration of the hydrocarbons well permit term or until the well is plugged and abandoned and the site restored, whichever occurs first. The operator shall be listed as principal and the instrument shall run to the city, as obligee, and shall be conditioned that the operator will comply with the terms and regulations of this article and the city. The original bond shall be submitted to the city secretary and a copy to the authorized city personnel.
  - (2) Letter of credit. A letter of credit shall be issued by a reliable bank authorized to do business in Texas and shall become effective on or before the date the hydrocarbons well permit is issued. The letter of credit shall remain in force and effect for at least a period of six (6) months after the expiration of the hydrocarbons well permit term. The city shall be authorized to draw upon such letter of credit to recover any fines or penalties assessed under this article. Evidence of the execution of a letter of credit shall be submitted to the city secretary by submitting an original signed letter of credit from the banking institution, with a copy of the same provided to the authorized city personnel.
  - (3) (A) The principal amount of any security instrument shall be fifty thousand dollars (\$50,000.00) for any single well. If, after the completion of a well, the applicant/operator, who initially posted a fifty thousand dollar (\$50,000.00) bond, has complied with all of the provisions of this article and whose well in the producing stage and all drilling operations have ceased, may submit a request to the city council to reduce the existing bond to ten thousand dollars (\$10,000.00) for the remainder of the time the well produces with reworking.



During reworking operations, the amount of the bond or letter of credit shall be maintained at fifty thousand dollars (\$50,000.00). In lieu of single well bonds an applicant may submit a one hundred thousand dollar (\$100,000.00) blanket bond.

- (B) If at any time, after no less than fifteen (15) days' written notice to the operator and a public hearing, the city council shall deem any operator's bond or letter of credit to be insufficient, it may require the operator to increase the amount of the bond or letter of credit up to a maximum of two hundred and fifty thousand dollars (\$250,000.00) per well.
- (4) (A) Whenever the authorized city personnel and/or city council finds that a default has occurred in the performance of any requirement or condition imposed by this article, a written notice shall be given to the operator. Such notice shall specify the work to be done, the estimated cost and the period of time deemed by the authorized city personnel and/or city council to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the city one hundred twenty-five (125) [percent] of the estimated cost of doing the work as set forth in the notice. In no event, however, shall the cure period be less than thirty (30) days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this article.
- (B) The city shall be authorized to draw against any irrevocable letter of credit or bond to recover such amount due from the operator. Upon receipt of such monies, the city shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the commission, such additional money may be demanded from the operator as is necessary to properly plug and abandon the well and restore the drill site in conformity with the regulations of this article.
- (5) In the event the operator does not cause the work to be performed and fails or refuses to pay over to the city the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the city against the applicable irrevocable letter of credit or bond, the city may proceed to obtain compliance and abate the default by way of civil action against the operator, or by criminal action against the operator, or by both such methods.
- (6) When the well or wells covered by said irrevocable letter of credit or bond have been properly abandoned in conformity with all regulations of this article, and in conformity with all regulations of the commission and notice to that effect has been received by the city, or upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

(c) Insurance. In addition to the bond or letter of credit required pursuant to this article, the operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in Texas. In the event such insurance policy or policies are cancelled, the hydrocarbons well permit shall be suspended on such date of cancellation and the operator's right to operate under such hydrocarbons well permit shall immediately cease until the operator files additional insurance as provided herein.

(1) General requirements applicable to all policies.

- (A) The city, its officials, employees, agents and officers shall be endorsed as "additional insured" to all policies except employer's liability coverage under the operator's worker's compensation policy.
- (B) All policies shall be written on an occurrence basis except for environmental pollution liability (seepage and pollution coverage) and excess or umbrella liability, which may be on a claims-made basis.
- (C) All policies shall be written by an insurer with an A-:VIII or better rating by the most current version of the A.M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the city.
- (D) Deductibles shall be listed on the certificate of insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.
- (E) Certificates of insurance shall be delivered to the City of New Fairview, 999 Illinois Lane, New Fairview, Texas 76078, evidencing all the required coverages including endorsements, prior to the issuance of a hydrocarbons well permit.
- (F) All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the city.
- (G) Any failure on the part of the city to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
- (H) Each policy shall be endorsed to provide the city a minimum thirty-day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten-day notice shall be acceptable in the event of nonpayment of premium.
- (I) During the term of the hydrocarbons well permit, the operator shall report, in a timely manner, to the authorized city personnel and/or city council any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- (J) Upon request, certified copies of all insurance policies shall be furnished to the city.

- (2) Standard commercial general liability policy. This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum combined single limit \$1,000,000.00 per occurrence for bodily injury and property damage.
  
- (3) Excess or umbrella liability.
  - \$5,000,000 Excess, if the operator has a stand-alone environmental pollution liability (EPL) policy.
  
  - \$10,000,000 Excess, if the operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If seepage and pollution coverage is written on a “claims made” basis, the operator must maintain continuous coverage and purchase extended coverage period insurance when necessary.
  
- (4) Environmental pollution liability coverage.
  - (A) The operator shall purchase and maintain in force for the duration of the hydrocarbons well permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; clean-up cost; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least \$1,000,000.00 per loss, with an annual aggregate of at least \$10,000,000.00.
  
  - (B) Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or hydrocarbons, waste material or other irritants, contaminants or pollutants.
  
  - (C) The operator shall maintain continuous coverage and shall purchase extended coverage period insurance when necessary. The extended coverage period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the city.
  
- (5) Control of well. The policy should cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents.
  - \$5,000,000 Per occurrence/no aggregate, if available, otherwise an aggregate of ten (10) million dollars.
  
  - \$500,000 Sub-limit endorsement may be added for damage to property for which the operator has care, custody and control.

- (6) Worker's compensation and employer's liability insurance.
    - (A) Worker's compensation benefits shall be Texas statutory limits.
    - (B) Employer's liability shall be a minimum of \$500,000.00 per accident.
    - (C) Such coverage shall include a waiver of subrogation in favor of the city and provide coverage in accordance with applicable state and federal laws.
  - (7) Automobile liability insurance.
    - (A) Combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
    - (B) Coverage must include all owned, hired and not-owned automobiles.
  - (8) Certificates of insurance.
    - (A) The company must be admitted or approved to do business in the State of Texas, unless a surplus lines insurer writes the coverage.
    - (B) The insurance set forth by the insurance company must be underwritten on forms that have been approved by the state department of insurance or ISO, or an equivalent policy form acceptable to the city, with the exception of environmental pollution liability and control of well coverage.
    - (C) Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
    - (D) Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the city. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT 30 DAY ADVANCE WRITTEN NOTICE TO THE OWNER AND THE CITY EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE 10 DAYS ADVANCE WRITTEN NOTICE IS REQUIRED."
    - (E) Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.
- (d) Indemnification and express negligence provisions. Each hydrocarbons well permit issued by the city shall include the following language: "Operator does hereby expressly release and discharge, all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or assigns may have, or claim to have, against the City of New Fairview, and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under a Hydrocarbons Well Permit. The Operator shall fully defend, protect, indemnify, and hold harmless the City of New Fairview, Texas, its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations,

judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the City of New Fairview, Texas, its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by Operator, its agents assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the Operator under a Hydrocarbons Well Permit. The Operator agrees to indemnify and hold harmless the City of New Fairview, Texas, its departments, its officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, cost, or judgments against the City, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the City of New Fairview occurring on the drill site or operation site in the course and scope of inspecting and permitting the Hydrocarbons wells INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF NEW FAIRVIEW OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE HYDROCARBONS WELLS. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY OF NEW FAIRVIEW, TEXAS, AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF NEW FAIRVIEW, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE.”

(e) Notices. The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this article may be served in person or by registered or certified mail. Every operator shall within ten (10) days notify the city in writing of any change in such agent or mailing address unless operations in the city are discontinued and abandonment is complete.

(f) Acceptance and indemnity agreement. The operator who has a net worth of not less than twenty-five million dollars (\$25,000,000,00), as shown in such owner’s or operator’s most recent audited financial statements, may substitute an acceptance and indemnity agreement in lieu of the bond or irrevocable letter of credit and insurance requirements set forth in this article, provided that such acceptance and indemnity agreement shall be in a form acceptable to, and approved by, the city attorney and the city council. The authorized city personnel may request an annual review of the operator’s most recent audited financial statements to assure compliance with this section.

(Ordinance 2003-02-088, sec. 11, adopted 4/22/03)

#### **Sec. 5.04.012      Technical regulations**

(a) On-site requirements.

- (1) Abandoned wells. All wells shall be abandoned in accordance with the rules of the railroad commission; however, all well casings shall be cut and removed to a depth of at least ten feet (10') below the surface unless the surface owner submits a written agreement otherwise. Three feet (3') shall be the minimum.

- (2) Blowout prevention. In all cases, blowout prevention equipment shall be used on all wells being drilled, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout during hydrocarbons operations as required by and in conformance with the requirements of the commission and the recommendations of the American Petroleum Institute. The operator must equip all drilling wells with adequate blowout preventers, flow lines and valves commensurate with the working pressures involved as required by the commission.
- (3) Compliance. The operator shall comply at all times with all applicable federal, state and city requirements.
- (4) Discharge. No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including wastewater or brine from any hydrocarbons operation or the contents of any container used in connection with any hydrocarbons operation in, into, or upon any public right-of-way, alleys, streets, lots, storm drain, ditch, sewer, septic [system], sanitary drain or any body of water or any private property in the city.
- (5) Drill stem testing. All open hole formation or drill stem testing shall be done during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate hydrocarbons separator to storage tanks and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.
- (6) Dust, vibrations, odors, etc. All equipment used shall be so constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effects will be minimized by the operations carried on at any drilling production site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.
- (7) Electric lines. All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.
- (8) Electric motors. Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the city ordinances and the appropriate national codes.
- (9) Emergency response plan. Prior to the commencement of any hydrocarbons [drilling] or other hydrocarbons production activities the operator shall submit to the authorized city personnel and/or city council an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of hydrocarbons wells. Said plan shall use existing guidelines established by the commission, the state commission on environmental quality, the department of transportation and/or the Environmental Protection Agency.

- (10) Equipment to be painted. All production equipment on the site shall be painted and maintained at all times, including pumping units, storage tanks, buildings and structures.
- (11) Fire prevention; sources of ignition. Firefighting apparatus and supplies as approved by the fire department and required by an applicable federal, state, or local law shall be provided by the operator, at the operator's cost, and shall be maintained on the drilling site at all times during drilling and production operations. The operator shall be responsible for the maintenance and upkeep of such equipment. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All wellheads shall contain an emergency shut-off valve to the well distribution line.
- (12) Fresh water wells.
- (A) It shall be unlawful to drill any well, the center of which at the surface of the ground is located within two hundred (200) feet to any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.
- (B) The operator of a hydrocarbon well shall provide the city council with a "pre-drilling" and "post-drilling" water analysis from any fresh water well within five hundred (500) feet of the hydrocarbons well.
- (C) Within 180 days of its completion date, each hydrocarbon well shall be equipped with a cathodic protection system to protect the production casing from external corrosion. The authorized city personnel and/or city council may approve an alternative method of protecting the production casing from external corrosion.
- (13) Hydrocarbons emission or burning restricted. No person shall allow, cause or permit hydrocarbons to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the commission, [and] then such vent or open flame shall not be located closer than three hundred (300) feet from any building not used in operations on the drilling site and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.
- (14) Grass, weeds and trash. All drill and operation sites shall be kept clear of high grass, weeds, and combustible trash within a radius of one hundred (100) feet around any hydrocarbons tank or tanks or producing wells.
- (15) Hazardous material management plan. A hazardous material management plan shall be on file with the authorized city personnel and city hall where at any time the fire department may have access to the plan.
- (16) Lights. No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three hundred (300) feet.

- (17) Muffling exhaust. Exhaust from any internal combustion engine, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler or mufflers or an exhaust muffler box constructed of noncombustible material sufficient to suppress noise and prevent the escape of obnoxious hydrocarbons, fumes or ignited carbon or soot.
- (18) Oil-based mud. No operations involving oil-based mud, drill fluids, work-over treatments, or other flammable-based fluids shall be allowed to be pumped on any permitted well location.
- (19) Pits. Such pits shall be restored and contents shall be removed from the premises and the drilling or work-over site within one hundred eighty (180) days after completion of the well to the standards required by the inspector to restore the area as practicable.
- (20) Private roads used for access to site. Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site itself shall be at least ten (10) feet wide, have an overhead clearance of fourteen (14) feet and shall be surfaced with crushed rock, gravel or ore and maintained to prevent dust and mud. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the inspector and the city council after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways, distances from adjoining and nearby property owners whose surface rights are not leased by the operation, the purpose for which the property of such owners is or may be used, topographical features, nature of the soil, and exposure to wind.
- (21) Salt water disposal wells. No salt water disposal wells shall be located within the city.
- (22) Signs.
- (A) A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to section 5.04.013 of this article. Such sign shall be of durable material, maintained in good condition and, unless otherwise required by the commission, shall have a surface area of not less than two (2) square feet nor more than four (4) square feet and shall be lettered with the following:
- (i) Well name and number;
  - (ii) Name of operator;
  - (iii) The emergency 911 number; and
  - (iv) Telephone numbers of two (2) persons responsible for the well who may be contacted in case of emergency.



- (B) Permanent weatherproof signs reading “DANGER NO SMOKING ALLOWED” shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by authorized city personnel and/or fire chief of East Wise Fire Rescue. Sign lettering shall be four (4) inches in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the fire department and the operator, well and lease designations required by the commission.
- (23) Storage of equipment.
- (A) On-site storage is prohibited on the operation site. No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site.
- (B) No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for drilling or production operations on the site. The fire department shall be the entity that determines whether equipment on the site shall constitute a fire hazard.
- (C) No refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises. This shall not be deemed to exclude a conventional hydrocarbons separator or dehydrator.
- (24) Storage tanks.
- (A) All tanks and permanent structures shall conform to the American Petroleum Institute (API) specifications unless other specifications are approved by the city council. All storage tanks shall be equipped with a secondary containment system [that] shall be a minimum of three feet (3') in height and one and one-half (2-1/2) [sic] times the contents of the largest tank in accordance with the fire code, and buried at least one foot (1') below the surface. Drip pots shall be provided at the pump-out connection to contain the liquids from the storage tank. Drip pots shall be provided at the pump-out connection to contain the liquids from the storage tank.
- (B) All tanks shall be set back pursuant to the standards of the commission and the National Fire Protection Association, but in all cases shall be at least twenty-five (25) feet from any public right-of-way or property line. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank.
- (C) No meters, storage tanks, separation facilities, or other above-ground facilities, other than the wellhead and flow lines, shall be placed in a floodway or the 100-year floodplain.

- (25) Surface casing. Surface casing shall be run and set in full compliance with the applicable rules and regulations of the commission.
  - (26) Tank battery facilities. Tank battery facilities shall be equipped with a remote foam line and a lightning arrestor system.
  - (27) Under-balanced operations. No operations involving under-balanced drilling or work-over conditions shall be allowed at any time, unless necessary to protect the citizens of the city and agreed to by the authorized city personnel.
  - (28) Valves. Each well must have a shut-off valve to terminate the well's production. The authorized city personnel shall have access to the well site to enable it to close the shut-off valve in an emergency.
  - (29) Waste disposal. Unless otherwise directed by the commission, all tanks used for storage shall conform to the following:
    - (A) The operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet the American Petroleum Institute standards. A fence applicable to the issued permit classification must enclose all tanks. No tank battery shall be within one hundred (100) feet of any dwelling or combustible structure.
    - (B) Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, reworking or deepening of any well shall be discharged into a lined earthen pit. All disposals must be in accordance with the rules of the commission and any other appropriate local, state or federal agency.
    - (C) Unless otherwise directed by the commission, waste materials shall be removed from the site and transported to an off-site disposal facility not less often than every thirty (30) days. Water stored in on-site tanks shall be removed as necessary.
    - (D) All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the state, this article and any other applicable ordinance of the city.
- (b) Well setbacks. It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:
- (1) Within twenty-five (25) feet from any outer boundary line;
  - (2) Within twenty-five (25) feet from any storage tank, or source of ignition;
  - (3) Within seventy-five (75) feet of any public street, road, highway or future street, right-of-way or property line; or five hundred (500) feet on FM 407, U.S. 287, or FM 2264;
  - (4) Within one hundred (100) feet of any building accessory to, but not necessary to, the operation of the well; or

- (5) Within two hundred (200) feet to any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore and subject to the approval of the inspector to ensure protection of the well and water supply.

The distances shall be calculated from the well bore, in a straight line, without regard to the intervening structures or objects, to the closest exterior point of any object listed in subsections (1) through (5) above. The distances set out in subsection (1), (3), (4), or (6) [sic] may be reduced at the discretion of the city council, but never less than two hundred (200) feet from any dwelling or any other building used, or designed and intended to be used, for human occupancy without the unanimous consent of the property owners within a two hundred (200) foot radius around said well and the affirmative vote of not less than three-fourths of all members of the city council. For protection of the public health, safety and welfare, the city council may impose additional requirements for a reduction of such distance. The reduction of the distance requirement for fresh water wells is subject to the railroad commission regulations and any other state or federal requirements.

(c) Installation of pipelines on, under or across public property.

- (1) The operator shall apply to the city for a franchise agreement on, over, under, along or across the city streets, sidewalks, alleys and other city property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may be continued under any hydrocarbons well permit issued pursuant to this article. The operator shall:
  - (A) Not interfere with or damage existing water, sewer or hydrocarbons lines or the facilities of public utilities located on, under or across the course of such rights-of-way.
  - (B) Furnish to the director of development of the city a plat showing the location of such pipelines.
  - (C) Construct such lines out of pipe in accordance with the city codes and regulations, properly cased and vented if under a street.
  - (D) Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed when operations for the drilling of the well were first commenced.
- (2) No hydrocarbons well permit shall be issued for any well to drilled within any of the street or alleys of the city and/or projected streets or alleys shown by the current comprehensive plan of the city, and no street or alley shall be blocked or encumbered or closed due to any exploration, drilling or production operations unless prior consent is obtained from authorized city personnel and/or the city council. Any consent from the authorized city personnel and/or city council shall be temporary in nature and state the number of hours and/or days that any street or alley may be blocked, encumbered or closed.

(Ordinance 2003-02-088, sec. 12, adopted 4/22/03)

**Sec. 5.04.013 Fences, walls and screening**

(a) Generally. Fences shall not be required on drill sites during initial drilling, completion or reworking operations as long as 24-hour on-site supervision is provided. A secured entrance gate shall be required. All gates are to be kept locked when the operator or his employees are not within the enclosure. Within 30 days after production has been established, all sites shall be completely enclosed by a permanent fence, wall, or other approved fencing material according to the requested hydrocarbons well permit, as follows:

(1) Chain-link fences.

- (A) The fence fabric shall be at least six (6) feet in height.
- (B) Support posts shall be set in concrete and shall be embedded into the ground to a depth sufficient to maintain the stability of the fence; provided, however, so long as stability of the fence is maintained, temporary fence posts shall not be required to be set in concrete.
- (C) The chain-link fabric shall be galvanized steel wire with a minimum plating of one and two-tenths (1.2) ounces of zinc per square foot of surface area and shall be coated with vinyl or plastic.
- (D) The chain-link fence fabric shall have minimum thickness of eleven (11) gauge.
- (E) The chain-link fabric shall be two-inch mesh; provided, however, three and one-half inch mesh may be used on any fence where the fabric is interwoven with artificial screening material approved by the fire chief.
- (F) Posts and rails shall be standard galvanized, welded pipe, schedule forty (40) or thicker; provided, however, that non-galvanized drill pipe may be used if it exceeds schedule forty (40) in thickness.
- (G) All pipe and other ferrous parts, except chain-link fabric and drill pipe, shall be galvanized inside and outside with a plating which contains a minimum of one and two-tenths (1.2) ounces of zinc per square foot of surface area.
- (H) Tension rods shall be three-eighths-inch round steel bolt stock. Adjustable tighteners shall be turnbuckle or equivalent having a six-inch minimum take-up. Tension bars shall have a minimum thickness of one-fourth by three-fourths inch.

(b) Gate specifications. All fences and walls shall be equipped with at least one (1) gate. The gate shall meet the following specifications:

- (1) The gates shall be of chain-link construction that meets the applicable specifications, or of other approved material that, for safety reasons, shall be at least as secure as a chain-link fence;

- (2) The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site.

(Ordinance 2003-02-088, sec. 13, adopted 4/22/03)

**Sec. 5.04.014 Clean-up and maintenance**

(a) Clean-up after well servicing. After the well has been completed or plugged and abandoned, the operator shall clean the drill site or operation site, complete restoration activities, and repair all damage to public property caused by such operation within sixty (60) days.

(b) Clean-up after spills, leaks and malfunctions. After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the fire chief and the authorized city personnel all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. If the owner fails to begin site clean-up within twenty-four (24) hours, the city shall have the right to contact the commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.

(c) Free from debris. The property on which a well site is located shall at all times be kept free of debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other waste material within or radius of one hundred (100) feet around any separators, tanks and producing wells.

(d) Painting. All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of green, blue and brown, or other neutral colors approved by the authorized city personnel.

(e) Blowouts. In the event of the loss of control of any well, the operator shall immediately take all reasonable steps to regain control regardless of any other provision of this article and shall notify the authorized city personnel and/or city council as soon as practicable. The authorized city personnel shall certify in writing, briefly describing the same, to the city council. If the authorized city personnel, in his opinion, believes that danger to persons and property exists because of such loss of well control and that the operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the authorized city personnel may then employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the authorized city personnel deems necessary to regain control of such well. The city shall then have a valid lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the city pursuant to such action of the authorized city personnel in gaining control of said well.

(Ordinance 2003-02-088, sec. 14, adopted 4/22/03)

**Sec. 5.04.015 Plugged and abandoned wells**

(a) Restoration of site. Whenever abandonment occurs pursuant to the requirements of the commission, the operator so abandoning shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this article.

(b) Approval of abandonment. Abandonment shall be approved by the authorized city personnel after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the authorized city personnel:

- (1) The derrick and all appurtenant equipment thereto shall be removed from the drill site;
- (2) All tanks, towers, and other surface installations shall be removed from the drill site;
- (3) All concrete foundations, piping, wood, guy anchors and other foreign materials, regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the commission;
- (4) All holes and depressions shall be filled with clean, compactable soil;
- (5) All waste, refuse or waste material shall be removed from the drill site (including any oil contaminated and/or other contaminated soil); and
- (6) During abandonment, the operator shall comply with all applicable sections in this article.

(c) Notice; documentation of state approval. The operator shall furnish the following at the discretion of the authorized city personnel:

- (1) A copy of the approval of the commission confirming compliance with all abandonment proceedings under the state law; and
- (2) A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

(d) Abandonment requirements prior to new construction. All abandoned or deserted well or drill sites shall meet the most current abandonment requirements of the commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

(Ordinance 2003-02-088, sec. 15, adopted 4/22/03)

**Sec. 5.04.016 Technical advisor**

The city may from time to time employ a technical advisor or advisors who are experienced and educated in the hydrocarbons industry or the law as it pertains to hydrocarbons matters. The function of such advisor(s) shall be to advise, counsel or represent the city on such matters relating to hydrocarbons operations within the city as the city may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the city. In the event such technical advisor(s) is employed for the purpose of advising, counseling or representing the city relative to an operator's unique and particular set of circumstances, case or request relating to this article, then the cost for such services of such technical advisor(s) shall be

assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this article. Prior to the employment of a technical advisor, the city shall inform the operator of the intended scope of work and the estimated costs and expenses. The employment of a technical advisor shall be approved by the city council. (Ordinance 2003-02-088, sec. 16, adopted 4/22/03)

**Sec. 5.04.017 Appeals**

(a) The city council shall have and exercise the power to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the issuance of a hydrocarbons well permit or the revocation or suspension of any hydrocarbons well permit issued hereunder as provided by this article. Any person or entity whose application is denied by the authorized city personnel (other than for distance requirements set out in this article) or whose hydrocarbons well permit is suspended or revoked or whose well or equipment is deemed by the authorized city personnel to be abandoned may, within thirty (30) days of the date of the written decision of the authorized city personnel, file an appeal to the city council in accordance with the following procedure:

- (1) An appeal shall be in writing and shall be filed in triplicate with the city secretary. The grounds for appeal must be set forth specifically, and the error described, by the appellant.
- (2) Within forty-five (45) days of receipt of the records, the city secretary shall transmit all papers involved in the proceeding, place the matter on the city council agenda for hearing and give notice by mail of the time, place and purpose thereof to appellant and any other party who has requested in writing to be so notified. No other notice need be given.

(b) Appeal fees shall be required for every appeal in the amount set forth in the fee schedule in appendix A of this code and the appellant will also be responsible for all costs of the appeal, including professional fees, incurred by the city in the handling of the appeal, and no permit will be issued until such are fully paid.

(Ordinance 2003-02-088, sec. 17, adopted 4/22/03; Ordinance adopting Code)

**Sec. 5.04.018 Oil wells**

All regulations and standards in this article for the production of hydrocarbons shall also apply to oil wells. (Ordinance 2003-02-088, sec. 18, adopted 4/22/03)

**Sec. 5.04.019 Violations; penalty**

- (a) It shall be unlawful and an offense for any person to do the following:
- (1) Engage in any activity not permitted by the terms of a hydrocarbons well permit issued under this article;
  - (2) Fail to comply with any condition set forth in a hydrocarbons well permit issued under this article; or
  - (3) Violate any provision or requirement set forth under this article.

(b) Any violation of this article shall be punished by a fine, per day, not to exceed the maximum amount permissible under state law. Each day that a violation exists shall constitute a separate offense.

(Ordinance 2003-02-088, sec. 19, adopted 4/22/03)

## ARTICLE 5.05 SEXUALLY ORIENTED BUSINESSES\*

### Sec. 5.05.001 Purpose and intent

It is the purpose of this article to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the harmful location and concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material. (Ordinance 2007-06-121, sec. 1 (12-160), adopted 5/15/07)

### Sec. 5.05.002 Definitions

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

*Achromatic* means colorless, lacking in saturation or hue. Without limitation, grays, tans and light earth tones shall be included, but white and black and any bold coloration that attracts attention shall be excluded from the definition of achromatic.

*Adult arcade* means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing specified sexual activities or specified anatomical areas.

*Adult audio or video center* means any place at which any of the following activities occurs:

- (1) Inbound or outbound telephone or other audio communications in which a topic or purpose of the communication between an occupant of the premises and a third party is the discussion or description of specified sexual activities or specified anatomical areas or is otherwise pornographic in nature for consideration;

---

\* **State law references**—Authority of municipality to regulate sexually oriented businesses, V.T.C.A., Local Government Code, ch. 243; employment harmful to children, V.T.C.A., Penal Code, sec. 43.251; sexual offenders as owners, operators, managers or employees of sexually oriented businesses, V.T.C.A., Business and Commerce Code, ch. 102.



- (2) Video or audio broadcasting, whether live, delayed, by film, by tape recording or otherwise, of specified sexual activities, specified anatomical areas or pornographic material for consideration; or
- (3) Filming, taping or otherwise creating video or audio recordings, including but not limited to films, movies, videotapes, DVDs, audio tapes or compact discs, that are broadcast, sold, manufactured or distributed for consideration.

Adult bookstore, adult novelty store or adult video store means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations, that depict or describe specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities or designed to depict specified anatomical areas.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity or semi-nude;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel means a hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than ten hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Chief of police means the chief of police for the city or designee.

City administrator means the city administrator for the city or designee.

Employee means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is designated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Entertainer means a person paid to provide entertainment to customers at a sexually oriented business; entertainment may consist of dancing, singing, modeling, acting, other forms of performing, or individual conversations with customers whereby the entertainer is paid any form of remuneration directly or indirectly for such conversations.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease or specified sexual activities for another person.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its business purposes for a fee, tip, or other consideration.

Establishment, when used as a verb, means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

License refers to both a sexually oriented business license and a sexually oriented business employee license, unless otherwise specified.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee license, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

Manager means a person designated by the owner or operator of a sexually oriented business to be responsible for the operation of such business at a particular location at a particular time; when the owner, proprietor, or other principal in the business is present, such person may be considered the manager.

Nude model studio means any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the state or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- (1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;
- (2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and
- (3) Where no more than one nude or semi-nude model is on the premises at any one time.

Nudity or a state of nudity means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque, meaning non-translucent, covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola, or the showing of the covered male genitals in a discernibly aroused state.

On-site card means the personal photographic identification card for an employee issued by the chief of police that must be provided by the employee to the manager or on-site manager in charge of the sexually oriented business as set forth herein.

Person means an individual, a group of two or more individuals, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

Personal card means the personal photographic identification card for an employee issued by the chief of police that must be displayed on the employee as set forth herein.

Principal means over 35 percent of customers, volume of sales, stock in trade, display areas, or presentation time, or any combination thereof in any three-month increment period beginning from the date of issuance of a certificate of occupancy. Stock in trade shall be measured with all titles or objects available on the premises for sale or rental, including those that are identical being considered a separate title or object.

Residential use means a single-family, townhouse, condominium, duplex, triplex, fourplex, mobile home, manufactured home, or multiple-family dwelling.

Semi-nude or in a semi-nude condition means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the nipple or areola is not exposed in whole or in part.

Sexual encounter center means a business or commercial enterprise that offers, for any form of consideration:

- (1) Any form of physical contact, including massage, by a person with the buttock, anus, male genitals, female genitals, or female breast of another person for the primary purpose of sexual stimulation or sexual gratification and regardless of whether any of the persons is in a state of nudity or semi-nude; or
- (2) Body painting of the buttock, anus, male genitals, female genitals, or female breast of another person, whether those of the patron or employee, for the primary purpose of sexual stimulation or sexual gratification and regardless of whether any of the persons is in a state of nudity or semi-nude.

Sexual encounter centers do not include any massage establishment lawfully registered under Texas Occupations Code, chapter 455, as amended, at which services are only provided by persons registered as a massage therapist under Texas Occupations Code, chapter 455, as amended.

Sexually oriented business means an adult arcade, adult audio or video center, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or other commercial enterprise a principal business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. Sexually oriented businesses do not include: (i) a bookstore, movie theater, or video store, unless that business is an adult bookstore, or adult movie theater or adult video store; (ii) a business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under the license held; or (iii) a business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts. A commercial establishment may have other business purposes that are not a sexually oriented business or related to a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its business purposes is a sexually oriented business.

Specified anatomical areas means:

- (1) The human male genitals in a discernibly aroused state, even if completely and opaquely covered; or
- (2) Less than completely and opaquely covered human genitals, pubic region, vulva, anus, anal cleft, buttocks or a female breast below a point immediately above the top of the areola.

Specified criminal activity.

- (1) Specified criminal activity means any of the following offenses: Prostitution or promotion of prostitution; aggravated promotion of prostitution, compelling prostitution; obscenity, dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault or aggravated sexual assault; incest, solicitation of a child or harboring a runaway child; molestation of a child; gambling; offenses involving necrophilia or bestiality; or distribution of a controlled substance; or any similar offenses to those described above as well as criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses, under the criminal or penal statutes of the states, country, county or city, for which:
  - (A) Less than two years have elapsed since the date of conviction or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
  - (B) Less than five years have elapsed since the date of conviction [sic] or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or
  - (C) Less than five years have elapsed since the date of conviction or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
- (2) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

Specified sexual activities means any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including but not limited to intercourse, oral copulation, masturbation, or sodomy; or
- (3) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) and (2) above.

Substantial enlargement of a sexually oriented business means the increase in floor areas occupied by the business by more than 25 percent, as the floor areas exist on: (i) the date the ordinance from which this article is derived takes effect; or (ii) for any premises not used as a sexually oriented business on the date the ordinance from which this article is derived takes

effect, the date an application for a license to use the premises as a sexually oriented business is received by the city designating the floor area of the structure or proposed structure in which the sexually oriented business will be conducted, regardless of any subsequent changes in applicants, licenses, owners, or operators of the premises or the sexually oriented business.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

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

(Ordinance 2007-06-121, sec. 1 (12-161), adopted 5/15/07; Ordinance adopting Code)

#### **Sec. 5.05.003 Classification**

Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult audio or video centers;
- (3) Adult bookstores, adult novelty stores, or adult video stores;
- (4) Adult cabarets;
- (5) Adult motels;
- (6) Adult motion picture theaters;
- (7) Adult theaters;
- (8) Escort agencies;
- (9) Nude model studios; and
- (10) Sexual encounter centers.

(Ordinance 2007-06-121, sec. 1 (12-162), adopted 5/15/07)

#### **Sec. 5.05.004 Location**

(a) A person commits an offense if the person operates or causes to be operated a sexually oriented business in any zoning district other than as allowed by the city's comprehensive zoning ordinance, as amended.

(b) A person commits an offense if the person operates or causes to be operated, within the city limits, a sexually oriented business within 1,250 feet of any of the following located within the city limits or its extraterritorial jurisdiction:

- (1) A religious institution, church, synagogue, mosque, temple or structure that is used primarily for religious worship and related religious activities or real property owned by, or for the benefit of, a religious organization that intends to use the property for such purposes if such ownership has been registered with the city;
- (2) A public or private educational facility, including but not limited to child day-care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuing education schools, special education schools, junior colleges, colleges and universities; school includes the school grounds and related athletic or other facilities regularly visited by students;
- (3) A boundary of a zoning district zoned for residential uses under the comprehensive zoning ordinance, an area designated as residential on the city's comprehensive planning guide;
- (4) A public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, playground, nature trails, swimming pool, golf course, reservoir, athletic field, basketball or tennis courts, pedestrian/ bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of a governmental entity;
- (5) The property line of a lot devoted to a residential use;
- (6) An entertainment business which is oriented primarily towards children or family entertainment; or
- (7) A licensed premises, licensed pursuant to the Texas Alcoholic Beverage Code.

(c) A person commits an offense if the person operates or causes to be operated, within the city limits, a sexually oriented business within 500 feet of the right-of-way of any of the following roadways located within the city limits or its extraterritorial jurisdiction:

- (1) FM 407; and
- (2) U.S. 287.

(d) A person commits an offense if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,250 feet of another sexually oriented business.

(e) A person commits an offense if that person causes or permits the operation, establishment, or maintenance of more than one classification of sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof, containing another sexually oriented business.

(f) For the purpose of subsections (b) and (c) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the property line or boundary of the premises where a sexually oriented business is operated or to be operated to the nearest property line or boundary for the uses listed in subsection (b) or the right-of-way for the roadways listed in subsection (c), as determined by the chief of police. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(g) For purposes of subsection (d) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the nearest property line of each property sought to be used as a sexually oriented business as determined by the chief of police. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(h) Any sexually oriented business lawfully operating prior to the effective date of the ordinance from which this article is derived that is in violation of one or more subsections of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason, including but not limited to suspension or revocation of license, or voluntary discontinuance for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,250 feet of one another and otherwise in a permissible location, the sexually oriented business which was first lawfully established and continually operating at a particular location is the conforming use and the later established business is nonconforming.

(i) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection (b) of this section within 1,250 feet of the sexually oriented business or a location listed in subsection (c) of this section within 500 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

(j) A person commits an offense if that person causes or permits the operation, establishment, or maintenance of a sexually oriented business within any tax increment financing zone established by the city.

(Ordinance 2007-06-121, sec. 1 (12-163), adopted 5/15/07)

**Sec. 5.05.005 License required**

(a) It shall be unlawful for any person to operate or maintain a sexually oriented business in the city without a valid sexually oriented business license issued by the city pursuant to this article for the premises at which the sexually oriented business is operating, or to operate such business after such license has expired or has been revoked or suspended by the city.

(b) It is unlawful for any person, entertainer, server, employee, manager, operator or owner to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed sexually oriented business.



(c) It is unlawful for any person who owns, manages or operates a sexually oriented business to have an employee or to employ a person, regardless of the nature of the employment, who works for the sexually oriented business who is not licensed as a sexually oriented business employee by the city pursuant to this article.

(d) It is unlawful for any person to obtain employment, regardless of the nature of the employment relationship, with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this article.

(e) It is unlawful for any person to fail to have a manager, who has a sexually oriented business employee license and who is responsible for ensuring compliance with this article, on-duty and working at any time the sexually oriented business is open for business.

(f) The failure to post a sexually oriented business license in the manner required herein shall be prima facie evidence that such business has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, employee, manager or owner who performs any business, service or entertainment in a sexually oriented business in which a sexually oriented business license is not posted in the manner required herein had knowledge that such business is not licensed.

(g) A separate license is required for each sexually oriented business. A sexually oriented business license shall be issued only for the one sexually oriented business use listed on the application. Any change in the type of sexually oriented business use shall invalidate the sexually oriented business license and require the licensee to obtain a new license for the change in use. The establishment or maintenance of more than one sexually oriented business in the same building, structure or portion thereof is prohibited.

(h) Each sexually oriented business license and each sexually oriented business employee license shall expire one year from the date of issuance and may be renewed only by making application for renewal. Application for renewal shall be made at least 30 business days prior to the expiration date, and when made less than 30 business days before the expiration date, the license will still expire on its expiration date. When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 business days have elapsed since the date the denial became final.

(i) Sexually oriented business licenses and sexually oriented business employee licenses are nontransferable.

(Ordinance 2007-06-121, sec. 1 (12-164), adopted 5/15/07)

**Sec. 5.05.006 License application and fees**

(a) An application for a sexually oriented business license or a sexually oriented business employee license shall be submitted to the chief of police on a form provided by the city and shall be sworn to as true and correct.

(b) All applicants must be qualified according to the provisions of this article. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this article.

(c) Only a person who is an officer of or who has an ownership interest in a sexually oriented business may apply for a sexually oriented business license. An individual wishing to operate a sexually oriented business must sign the application. If a person who wishes to operate a sexually oriented business is other than an individual, each individual having the power to control or direct its operations, each individual who is an officer and/or each individual having a 20 percent or greater ownership interest in the sexually oriented business must sign the application for a license as an applicant. Such persons include, but are not limited to, general partners, officers, directors, and controlling shareholders or owners. Each applicant must be qualified under this article and each applicant shall be considered a licensee if a license is granted.

(d) The completed application for a sexually oriented business license shall contain the following information and be accompanied by the following documents:

- (1) If the applicant is:
  - (A) An individual, the individual shall state such person's legal name and any aliases and submit proof that such person is 18 years of age;
  - (B) A partnership, the partnership shall state its complete name, the date of its formation, evidence that the partnership is in good standing under the laws of the state and if not a Texas partnership, its state of formation, the names and capacity of all partners and officers, whether the partnership is general, limited or otherwise, a copy of the partnership agreement or certificate of partnership, if any, and the official name and address to be used for process of service on the partnership; and/or
  - (C) A corporation, limited liability company or other legal entity, the entity shall state its complete name, the date of its incorporation or formation, evidence that the entity is in good standing under the laws of the state of formation and if not a Texas entity, the state of incorporation or formation, the names and capacity of all officers, directors and controlling stockholders or owners, and the name of the registered agent and the address of the registered office for service of process.
- (2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the application must:
  - (A) State the sexually oriented business's fictitious name or business owner's fictitious name; and
  - (B) Submit the required registration and assumed name documents.
- (3) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each conviction, and the date of release from confinement, if applicable.
- (4) Whether the applicant, or a person residing with the applicant, has had a previous license under this article or other similar sexually oriented business provisions from another city or county denied, suspended or revoked, including the name and location

of the sexually oriented business for which the permit was denied, suspended or revoked, the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder or owner of a corporation or other legal entity that is licensed under this article whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, and the date of denial, suspension or revocation.

- (5) Whether the applicant or a person residing with the applicant holds any other licenses under this article or other similar sexually oriented business regulations from another city or county and, if so, the names and locations of such other licensed businesses.
- (6) The classification of the sexually oriented business for which the applicant is seeking the license. A sexually oriented business may only have one classification to be eligible for a license.
- (7) The location of the proposed sexually oriented business, including a legal description of the property, street address, telephone number, if any, and the dates a notice sign was posted as required by this article.
- (8) The applicant's mailing address and residence address.
- (9) For each applicant, a copy of a valid state driver's license with photo, or a valid state identification card with photo. The originals of the required forms of identification shall be presented to the chief of police for inspection prior to the issuance of a license.
- (10) The applicant's driver's license number and state of issuance.
- (11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business, prepared and sealed by an architect or engineer, drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- (12) A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,250 feet of the property to be certified; the property lines or boundaries of the uses and locations described in section 5.05.004(b) and (c) within 1,250 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence or owned by such type of user at the time an application is submitted.
- (13) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, videocassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the additional application requirements set forth in section 5.05.015.

- (14) A statement whether the applicant or a person with whom applicant is residing is delinquent in payment to the city of taxes, fees, fines or penalties.
- (e) The completed application for a sexually oriented business employee license shall contain the following information and shall be accompanied by the following documents:
- (1) The applicant's name or any other name (including "stage" names) or aliases used by the individual;
  - (2) Age, date, and place of birth;
  - (3) Height, weight, hair and eye color;
  - (4) Present residence address and telephone number;
  - (5) Present business address and telephone number;
  - (6) A copy of a valid state driver's license with photo, or a valid state identification card with photo. The originals of the required forms of identification shall be presented to the chief of police for inspection prior to the issuance of a license;
  - (7) Proof that the individual is at least 18 years of age;
  - (8) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the city. Any fees for the photographs and fingerprints shall be paid by the applicant;
  - (9) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country, has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application;
  - (10) A statement whether the applicant has been convicted of a specified criminal activity as defined in this article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each conviction, and the date of release from confinement, if applicable; and
  - (11) A statement whether the applicant or a person with whom applicant is residing is delinquent in payment to the city of taxes, fees, fines or penalties.
- (f) All employees of a sexually oriented business existing prior to the passage of the ordinance from which this article is derived must submit an application for a sexually oriented business employee license required by this article no later than 60 days from the effective date of the ordinance from which this article is derived and any employee failing to do so shall not continue to work on the premises of a sexually oriented business if he fails to submit an application within 60 days or if the application for license is denied. Any person who fails to timely submit an

application for a license as required by this subsection, or any person operating a sexually oriented business who allows an employee to continue working who is not in compliance with this subsection or who fails to receive a license shall be considered to be in violation of this section.

(g) Each application for a sexually oriented business license and each application for a sexually oriented business employee license, or renewal thereof, shall be accompanied by a nonrefundable application fee established by resolution of the city council. An application shall not be considered filed until the required fee is paid and the application is complete in all respects and all information and documentation required by the application form has been submitted.

(h) Each applicant shall sign a waiver and authorization form authorizing the chief of police to request on behalf of the applicant criminal history from the state department of public safety and other appropriate state and federal agencies. The applicant shall pay all fees and costs associated with such request for criminal history.

(i) Each license issued by the chief shall include two photographic identification cards, a personal card and an on-site card.

(j) If any personal card or on-site card is lost or stolen, the holder thereof shall immediately notify the chief of police and request a replacement, which shall be issued for a fee established by resolution of the city council within three days following verification of the identify of the holder.

(Ordinance 2007-06-121, sec. 1 (12-165), adopted 5/15/07)

**Sec. 5.05.007 Posting of signs concerning intent to locate**

The following requirements apply for posting a sign concerning intent to locate sexually oriented businesses:

- (1) An applicant for a sexually oriented business license for a location for which a sexually oriented business license has not previously been issued shall post an outdoor sign at the location in compliance with Texas Local Government Code, section 243.0075, as amended, not later than the 60th day before submitting the application for a sexually oriented business license.
- (2) The sign shall comply with the following and Texas Local Government Code, section 243.0075, as amended:
  - (A) The sign must be at least 24 by 36 inches in size;
  - (B) All letters must be at least two inches in height and one and one-half inches in width for each letter on the sign;
  - (C) The sign shall state that a sexually oriented business is intended to be located on the premises;
  - (D) The sign shall provide the name and business address of the owner and operator;
  - (E) All required information must be presented in both English and Spanish;

- (F) All required information must read horizontally from left to right; and
  - (G) The sign shall be prominently posted such that it is clearly legible from the public right-of-way.
- (3) The operator of a proposed sexually oriented business shall notify the chief of police, by certified mail or hand delivery, when a sign is posted at the intended location of the business in compliance with Texas Local Government Code, section 243.0075, as amended. The notification must be in the form of a sworn statement indicating the location of the sign and the date it was posted and must be received by the chief of police within five days after the posting of the sign. If the chief of police receives the notification within five days after the sign was posted, the 60-day posting period required by Texas Local Government Code, section 243.0075 shall be deemed to begin on the posting date. If the notification is received by the chief of police more than five days after the sign was posted, the 60-day posting requirement shall be deemed to begin on the date the chief of police verifies the sign has been posted.
- (4) When a sign is posted at an intended location of a sexually oriented business and the intended location is not in violation of the distance requirements set out in this article on the posting date, the sexually oriented business will qualify as a conforming use with regard to the distance requirements and will not be rendered nonconforming by any location, subsequent to the posting of the sign, of the use or location described in section 5.05.004(b) and (c) within 1,250 feet of the posted location.
- (5) Subsection (4) of this section does not apply if:
- (A) A completed application for a license for a proposed sexually oriented business is not filed with the chief of police within 20 days after the expiration of the 60-day posting requirement under Texas Local Government Code, section 243.0075, as amended; or
  - (B) The application for a license is withdrawn or denied; or
  - (C) The notification requirements of subsection (2) are not met.

(Ordinance 2007-06-121, sec. 1 (12-166), adopted 5/15/07)

**Sec. 5.05.008 Issuance of license**

(a) Upon the filing of a complete application for a sexually oriented business employee license, the chief of police shall issue a temporary license, valid for 30 business days, to said applicant. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. The application shall then be referred to the appropriate city departments for an investigation to be made on such information as is contained on the application. The investigation shall be completed within 25 business days from the date the

completed application was filed. Upon completion of the investigation, the chief of police shall issue a license, not later than 30 business days from the date the completed application was filed, unless it is determined by a preponderance of the evidence that one or more of the following are true:

- (1) The application contains false, fictitious or fraudulent information or the applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
- (2) The applicant is under the age of 18 years;
- (3) The applicant has been convicted of a specified criminal activity;
- (4) The sexually oriented business employee license is to be used for employment in a business prohibited or unlicensed by local or state law, statute, rule or regulation, or prohibited by a particular provision of this article;
- (5) The applicant has had a sexually oriented business employee license revoked by the city within two years of the date of the current application;
- (6) The license application fee and/or costs required by this article have not been paid; or
- (7) The applicant or a person with whom applicant is residing is delinquent in payment to the city of taxes, fees, fines or penalties.

(b) Sexually oriented business licenses and sexually oriented business employee licenses issued pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the chief of police that the applicant has not been convicted of any specified criminal activity or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of a license renewal application fee established by resolution of the city council from time to time.

(c) Upon the filing of a complete application for a sexually oriented business license, the application shall be referred to the appropriate city departments for an investigation to be made on such information as is contained on the application. The investigation shall be completed within 25 business days from the date the completed application was filed. Upon completion of the investigation, the chief of police shall issue a license not later than 30 business days from the date the completed application was filed, unless it is determined by a preponderance of the evidence that one or more of the following are true:

- (1) An applicant is under 18 years of age;
- (2) An applicant or a person with whom applicant is residing is delinquent in payment to the city of taxes, fees, fines or penalties, including but not limited to those related to the sexually oriented business or the property on which the sexually oriented business is located;
- (3) The application contains false, fictitious or fraudulent information or the applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

- (4) An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding 12 calendar months or whose license to operate a sexually oriented business has been revoked within the preceding 12 calendar months;
- (5) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity;
- (6) The premises to be used for the sexually oriented business have not been approved by the police department, fire department, development services department, building official, health department or other city department or applicable governmental agency as being in compliance with applicable laws and ordinances;
- (7) The license application fee and/or costs required by this article have not been paid; or
- (8) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article, the comprehensive zoning ordinance, or any other applicable city ordinance, as may be amended.

(d) The sexually oriented business license, if issued, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the address of the sexually oriented business and the classification for which the license is issued. All sexually oriented business licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time the establishment is occupied or open for business. A sexually oriented business license is only valid for the premises for which it was issued. The sexually oriented business employee license, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the applicant. The holder of a sexually oriented business employee license shall have the license available for inspection at the premises where such person is working pursuant to the authority granted under the license. The holder of a sexually oriented business license shall be responsible for verifying that each employee holds a valid sexually oriented business employee license and for maintaining copies of such employee licenses on the premises.

(e) A sexually oriented business license shall be issued for only one classification.

(Ordinance 2007-06-121, sec. 1 (12-167), adopted 5/15/07)

**Sec. 5.05.009 Inspection**

(a) As a condition for the issuance of a license, an applicant or licensee shall permit representatives of the police department, health department, fire department, development services department, building inspections or other city departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business and at other reasonable times upon request.



(b) A licensee or person who operates a sexually oriented business, or their agent or employee, commits an offense if such person refuses to permit a lawful inspection of the premises by representatives of the city as set forth in subsection (a) above at any time the sexually oriented business is occupied or open for business and at other reasonable times upon request.

(Ordinance 2007-06-121, sec. 1 (12-168), adopted 5/15/07)

**Sec. 5.05.010 Suspension of license**

(a) The chief of police shall suspend a license for a period not to exceed 30 calendar days if the chief determines that a licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any section of this article; or
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this article.

(b) A sexually oriented business may not operate while the sexually oriented business license issued for that business is suspended. The holder of a sexually oriented business employee license may not work on the premises of a sexually oriented business while that employee's license is suspended, except as allowed by section 5.05.012.

(Ordinance 2007-06-121, sec. 1 (12-169), adopted 5/15/07)

**Sec. 5.05.011 Revocation of license**

(a) The chief of police shall revoke a license if a cause of suspension in section 5.05.010 occurs and the license has been suspended within the preceding 12 months.

(b) The chief of police shall revoke a license if the chief of police determines that:

- (1) A licensee gave false or misleading information in the material submitted during the application process;
- (2) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business or failed to report such activities to the police;
- (3) A licensee has knowingly allowed prostitution on the premises of the sexually oriented business or failed to report such activities to the police;
- (4) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises;
- (6) A licensee is delinquent in payment to the city of taxes, fees, fines or penalties, including but not limited to those related to the sexually oriented business or the property on which the sexually oriented business is located; or

- (7) A manager, having a sexually oriented business employee license, responsible for ensuring compliance with this article is not on duty and working at any time the premises is open for business.

(c) When the chief of police revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a license for one year from the date the revocation became effective. If, subsequent to revocation, the chief of police finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(Ordinance 2007-06-121, sec. 1 (12-170), adopted 5/15/07)

**Sec. 5.05.012 Appeals**

(a) Any applicant for a license who is denied a license or the holder of any license that is suspended or revoked shall have the right to appeal such decision to the city administrator. The appeal may be made by filing with the city administrator, within ten (10) business days after notice of the denial, suspension or revocation has been received, a written statement setting forth fully the grounds for the appeal and the name, mailing address, facsimile number and/or e-mail address and telephone number to be used by the city to provide notice of a hearing as required by subsection (b) of this section.

(b) The city administrator shall provide for a hearing on such appeal and shall notify the appellant and chief of police in writing of the date, time and location of such hearing at least seven (7) calendar days prior to the hearing, unless the appellant agrees in writing to a shorter period. The appeal shall be decided on the basis of a preponderance of the evidence. For purposes of this section, notice by facsimile or hand delivery shall be considered delivered on the date of fax, or delivery, if faxed or delivered prior to 5:00 p.m., and if after 5:00 p.m. it shall be considered delivered on the next day. Notice sent by U.S. mail shall be deemed delivered on the second day following deposit in the United States mail.

(c) The decision of the city administrator shall be made no later than 30 business days after receipt of notice of the appeal unless waived by the appellant. The decision of the city administrator is final.

(d) If the appellant being denied a license renewal holds an unrevoked, unsuspended license for the preceding year, such person shall be permitted to continue to operate under the existing license until a final decision is made by the city administrator under this section, unless the chief of police determines from evidence or information presented to it that continued operation or work by the appellant would constitute a continuing and imminent threat to the public welfare; however, if said license expired prior to the denial of the renewal, the license shall be considered expired and the appellant may not use the expired license.

(e) An appellant appealing the suspension or revocation of a license may continue to use such license until a final decision is made by the city administrator, unless the city determines from evidence or information presented to it that continued operation or work by the appellant would constitute a continuing and imminent threat to the public welfare.

(f) The decision of the city administrator may be appealed to the state district court of Wise County.

(Ordinance 2007-06-121, sec. 1 (12-171), adopted 5/15/07; Ordinance adopting Code)

**Sec. 5.05.013 Transfer of license**

A licensee commits an offense if the licensee transfers a license to another person or entity, or operates a sexually oriented business under the authority of a license at any place other than at the address for which the license was issued. (Ordinance 2007-06-121, sec. 1 (12-172), adopted 5/15/07)

**Sec. 5.05.014 Additional regulations for adult motels**

(a) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this article.

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, he rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or sub-rents the same sleeping room again.

(c) For purposes of subsection (b) of this section, the term “rent” or “sub-rent” means the act of permitting a room to be occupied for any form of consideration.

(Ordinance 2007-06-121, sec. 1 (12-173), adopted 5/15/07)

**Sec. 5.05.015 Additional regulations for exhibition of sexually explicit films, videos or live entertainment in viewing rooms**

A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room, booth, stall or partitioned portion of a room having less than 150 square feet of floor space, a film, videocassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas (herein referred to as “viewing area”) shall comply with the following requirements:

- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager’s stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager’s station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer’s or architect’s blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal

dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The city may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) No alteration in the configuration or location of a manager's station may be made without the prior written approval of the chief of police.
- (3) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (4) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. No viewing area shall have a door, half-door, curtain, portal, partition or other divider unless at least one side is completely open to an adjacent public room and a manager's station so that the area inside is visible to persons in the adjacent public room and a manager's station.
- (5) It shall be the duty of the licensee to ensure that the viewing area specified herein remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted as set forth in the application filed pursuant to subsection (1) of this section.
- (6) No viewing area may be occupied by more than one person at any time.
- (7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five footcandles as measured at the floor level.
- (8) It shall be the duty of the licensee to ensure that the illumination described in subsection (7) above is maintained at all times that any patron is present in the premises.
- (9) No licensee shall allow openings of any kind to exist between viewing areas.
- (10) No person shall make or attempt to make an opening of any kind between viewing areas. A solid metal barrier in which an opening cannot be easily made shall be used in the wall construction between viewing areas within 48 inches of the floor.
- (11) The licensee shall, during each business day, regularly inspect the walls between the viewing areas to determine if any openings or holes exist.

- (12) The licensee shall cause all floor coverings in viewing areas to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (13) The licensee shall cause all wall surfaces and ceiling surfaces in viewing areas to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor. A person having a duty under subsections (1) through (12) above commits an offense if such person knowingly fails to fulfill that duty.

(Ordinance 2007-06-121, sec. 1 (12-174), adopted 5/15/07)

**Sec. 5.05.016 Additional regulations for escort agencies**

- (a) An escort agency shall not employ any person under the age of 18 years.
- (b) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Ordinance 2007-06-121, sec. 1 (12-175), adopted 5/15/07)

**Sec. 5.05.017 Additional regulations for nude model studios**

- (a) A nude model studio shall not employ any person under the age of 18 years.
- (b) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view, not open to persons of the opposite sex or visible to any other person, so long as there was not more than one person in a restroom stall.
- (c) A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity, in an area of a nude model studio premises which can be viewed from the public right-of-way.
- (d) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.
- (e) An employee of a nude model studio, while exposing any specified anatomical areas, commits an offense if the employee touches a patron or the clothing of a patron.
- (f) A patron at a nude model studio commits an offense if he touches an employee who is exposing any specified anatomical areas or touches the clothing of the employee.
- (g) A licensee or an employee of a nude model studio commits an offense if he permits any customer access to an area of the premises not visible from the manager's station or not visible by a walk-through of the premises without entering a closed area, excluding a restroom.

(Ordinance 2007-06-121, sec. 1 (12-176), adopted 5/15/07)

**Sec. 5.05.018 Sexual encounter centers prohibited**

(a) Sexual encounter centers are prohibited. No license shall be issued for the operation of a sexual encounter center.

(b) A person commits an offense if the person owns, operates or causes to be operated a sexual encounter center. Any person in control of the premises shall be presumed to be operating the sexual encounter center.

(Ordinance 2007-06-121, sec. 1 (12-177), adopted 5/15/07)

**Sec. 5.05.019 Additional regulations concerning public nudity and employees**

(a) It shall be an offense for a person to knowingly and intentionally appear in a state of nudity or to depict specified sexual activities in a sexually oriented business.

(b) It shall be an offense for a person to knowingly or intentionally appear in a semi-nude condition in a sexually oriented business unless the person is an employee who, while semi-nude, shall be at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor level used by patrons.

(c) It shall be an offense for an employee to solicit any pay or gratuity from any patron while said employee is semi-nude in a sexually oriented business.

(d) It shall be an offense for any patron to pay or give any gratuity to any employee while said employee is nude or semi-nude in a sexually oriented business.

(e) It shall be an offense for an employee to touch a patron or the clothing of a patron while said employee is semi-nude in a sexually oriented business.

(f) It shall be an offense for a patron in a sexually oriented business to touch a nude or semi-nude employee, or to touch the clothing of a nude or semi-nude employee.

(g) Each manager or entertainer shall conspicuously display his personal card upon his person at all times while acting as an entertainer or manager of or in a sexually oriented business.

(h) Each manager or entertainer shall provide his on-site card to the manager or on-site manager in charge of the sexually oriented business to hold while the manager or entertainer is on the premises of the sexually oriented business.

(Ordinance 2007-06-121, sec. 1 (12-178), adopted 5/15/07)

**Sec. 5.05.020 Prohibition against minors in sexually oriented business**

(a) Except as provided in subsection (b) below, a person commits an offense if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business. It shall be unlawful for any person under the age of 18 years to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.

(b) No person under the age of 21 shall be permitted on the premises of a sexually oriented business where persons appear in a state of nudity or a state of semi-nudity. A person commits an offense if the person knowingly allows a person under the age of 21 years on the premises of a sexually oriented business where persons appear in a state of nudity or state of semi-nudity. It shall be unlawful for any person under the age of 21 years to enter or be on the premises of a sexually oriented business, where persons appear in a state of nudity or semi-nudity, at any time such sexually oriented business is open for business.

(Ordinance 2007-06-121, sec. 1 (12-179), adopted 5/15/07)

**Sec. 5.05.021 Hours of operation**

No sexually oriented business, except for an adult motel, may remain open at any time except between the hours of 10:00 a.m. and 10:00 p.m. Monday through Saturday, and 12:00 p.m. (noon) and 10:00 p.m. on Sunday. (Ordinance 2007-06-121, sec. 1 (12-180), adopted 5/15/07)

**Sec. 5.05.022 Alcoholic beverage sales and consumption prohibited**

(a) It shall be an offense for any person to maintain, own, or operate a sexually oriented business on any premises on which alcoholic beverages are served or offered for sale for consumption, or permitted to be consumed.

(b) It shall be an offense for any person who maintains, owns or operates any commercial establishment where alcoholic beverages are served or offered for sale for consumption on the premises, or are permitted to be consumed on the premises, to permit any person to appear in a state of nudity or semi-nudity.

(Ordinance 2007-06-121, sec. 1 (12-181), adopted 5/15/07)

**Sec. 5.05.023 Signs and exterior portions**

(a) A person commits an offense if the person allows:

- (1) The merchandise or activities of the sexually oriented business to be visible from any point outside the premises;
- (2) Any exterior portion of the premises of a sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, graphics or pictorial representations of any manner except for the words or letters allowed by subsection (b);
- (3) Any sign to exist that does not comply with the city sign ordinance as it exists or may be amended; or
- (4) Any exterior portion of the premises of a sexually oriented business to be any color other than a single achromatic color, unless the following conditions are met:
  - (A) The premises are part of a commercial multi-unit development; and

- (B) The exterior portions of each premises or unit in the commercial multi-unit development, including the exterior of the sexually oriented business, are the same color as one another or are colored in such a way as to be a component of the overall architectural style or pattern of the commercial multi-unit development.

(b) Notwithstanding any provision of the city sign ordinance, as it exists or may be amended, a sexually oriented business is limited to one (1) attached sign with an area not exceeding that calculated by multiplying the lease space frontage by two feet, and in no case greater than 100 square feet in area, and one (1) freestanding sign not exceeding (6) feet in height and 35 square feet in area. No sign visible from any point outside the premises shall contain photographs, silhouettes, drawings, or pictorial representations of any manner, and may contain only:

- (1) The name of the establishment; and/or
- (2) One of the following phrases:
  - (A) “Adult arcade”;
  - (B) “Adult audio center” or “adult video center”;
  - (C) “Adult bookstore”;
  - (D) “Adult novelty store”;
  - (E) “Adult video store”;
  - (F) “Adult cabaret”;
  - (G) “Adult motel”;
  - (H) “Adult motion picture theater”;
  - (I) “Adult theater”;
  - (J) “Escort agency”; or
  - (K) “Nude modeling studio.”
- (3) A person commits an offense by installing or causing to be installed any sign in violation of this section or by allowing the continued display of an unlawful sign.

(c) No sexually oriented business shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, sign, show window or other opening from any public view.



(d) A sign shall be conspicuously displayed in the common area of an adult cabaret or adult theater that shall read as follows:

THIS ADULT ENTERTAINMENT ESTABLISHMENT IS  
REGULATED BY THE CITY OF NEW FAIRVIEW

Entertainers and employees are:

- a. Not permitted to engage in any type of sexual conduct.
- b. Not permitted to be unclothed, clothed in less than opaque attire, or to move or remove such attire, or allow such attire to be moved or removed so as to expose to view any portion of the pubic region, anus, buttocks, vulva or genitals, or any portion of the female breast below the top of the areola except upon a stage at least two (2) feet above the immediate floor level and removed at least six feet (6') from the nearest patron.
- c. Not permitted to demand or collect any payment or gratuity from any patron for entertainment before its completion.

(Ordinance 2007-06-121, sec. 1 (12-182), adopted 5/15/07)

**Sec. 5.05.024 Injunction**

A person who operates or causes to be operated a sexually oriented business without a valid license or who violates this article is subject to a suit for injunction as well as prosecution for criminal violations. (Ordinance 2007-06-121, sec. 1 (12-183), adopted 5/15/07)

**Sec. 5.05.025 Enforcement**

(a) Whenever a person does an act that is prohibited, fails to perform an act that is required, or commits an act that is made an offense by any provision of this article or any other ordinance regulating sexually oriented businesses, the violation is punishable by a fine not to exceed two thousand dollars (\$2,000.00), or [as provided by] other applicable law. A person violating a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.

(b) Except where otherwise specified, a culpable mental state is not required for the commission of an offense under this article.

(c) It is a defense to prosecution under section 5.05.017 that a person appearing in a state of nudity did so in a modeling class operated:

- (1) By a proprietary school, licensed by the state; or a college, a junior college, or a university supported entirely or partly by governmental taxation;
- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

- (3) In a structure:
  - (A) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
  - (B) Where, in order to participate in a class a student must enroll at least three days in advance of the class; and
  - (C) Where no more than one nude model is on the premises at any one time.

(Ordinance 2007-06-121, sec. 1 (12-184), adopted 5/15/07)

## **ARTICLE 5.06 ANNUAL SAFETY INSPECTION PROGRAM**

### **Sec. 5.06.001 Purpose**

The purpose of the annual safety inspection program is to ensure that business and commercial operations within the city are operating in compliance with applicable federal, state and local regulations to protect the health, safety, and welfare of the city by reducing the risk of the occurrence of dangerous incidents, including fires, explosions, nuisances, and other catastrophes. (Ordinance 202102-35-220, sec. 1(A), adopted 2/1/21)

### **Sec. 5.06.002 Subject operations**

The following business and commercial operations within the city, including those currently existing and new operations, shall be subject to an annual inspection by the inspection official to ensure the operation is in compliance with the applicable federal, state, and local regulations that govern the operation:

- (1) Hydrocarbon well operations.
- (2) Commercial business operations.
- (3) Food establishment operations.
- (4) Rental properties.

(Ordinance 202102-35-220, sec. 1(B), adopted 2/1/21)

### **Sec. 5.06.003 Noncompliance**

If an operator of an operation subject to this article is found to be noncompliant during the annual inspection, the city shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure and the extent of the efforts required to cure. In no event, however, shall the cure period be less than fifteen (15) days. It shall be a violation for the operator to fail to correct the noncompliance within the cure period. (Ordinance 202102-35-220, sec. 1(C), adopted 2/1/21)

**Sec. 5.06.004      Inspection fees**

The operator of an operation subject to an inspection under this article shall pay an inspection fee as prescribed in the fee schedule adopted by the city council and amended from time to time. Failure to pay the fee required for an inspection under this article shall be a violation. (Ordinance 202102-35-220, sec. 1(D), adopted 2/1/21)

**Sec. 5.06.005      Penalty**

A violation of this article shall be an offense punishable by a fine in accordance with the general penalty provided in section 1.01.009 of this code. (Ordinance 202102-35-220, sec. 1(E), adopted 2/1/21; Ordinance adopting Code)



# CHAPTER 6

## FIRE PREVENTION AND PROTECTION

ARTICLE 6.01 GENERAL PROVISIONS .....	6-7
ARTICLE 6.02 OPEN BURNING.....	6-7
Sec. 6.02.001    Area of jurisdiction.....	6-7
Sec. 6.02.002    Definitions.....	6-7
Sec. 6.02.003    Penalty.....	6-7
Sec. 6.02.004    Restrictions; applicability of state regulations .....	6-7
ARTICLE 6.03 FIREWORKS .....	6-8
Sec. 6.03.001    Area of jurisdiction.....	6-8
Sec. 6.03.002    Definitions.....	6-8
Sec. 6.03.003    Penalty.....	6-8
Sec. 6.03.004    Discharge of fireworks.....	6-8

[Next page is 6-7.]



**ARTICLE 6.01 GENERAL PROVISIONS\***

**(Reserved)**

**ARTICLE 6.02 OPEN BURNING†**

**Sec. 6.02.001 Area of jurisdiction**

The provisions of this article shall apply to all territory within the corporate limits of the city. (Ordinance 2000-15-0075, sec. 1, adopted 8/14/00)

**Sec. 6.02.002 Definitions**

Wherever used in this article:

Brush means tree trimmings, weeds, large hedge trimmings, and trees.

Garbage means rubbish, trash, kitchen, and household waste, ashes, paper, food containers, and small hedge and lawn trimmings.

Incinerator means a furnace or apparatus for reducing any substance to ashes as for consuming refuse.

(Ordinance 2000-15-0075, sec. 2, adopted 8/14/00)

**Sec. 6.02.003 Penalty**

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty provided in section 1.01.009 of this code. Each transaction in violation of any of the provisions hereof shall be deemed a separate offense. (Ordinance 2000-15-0075, sec. 4, adopted 8/14/00; Ordinance adopting Code)

**Sec. 6.02.004 Restrictions; applicability of state regulations**

- (a) Burning of garbage, trash, or waste material is prohibited.
- (b) Controlled burning of brush may be done only after obtaining a burn permit at city hall.
- (c) The Texas Clean Air Act (TCAA) will become a part of this article allowing controlled burning within the city limits.

---

\* **State law references**—Municipal fire protection, V.T.C.A., Local Government Code, ch. 342; authority to establish fire regulations, V.T.C.A., Local Government Code, sec. 342.003; fire, V.T.C.A., Health and Safety Code, ch. 791 et seq.

† **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.

(d) The state commission on environmental quality's TAC title 30, chapter 111, Control of Air Emissions from Visible Emission and Particulate Matter, subchapter B, Outdoor Burning, will be followed in outdoor burning.

(Ordinance 2000-15-0075, sec. 3, adopted 8/14/00)

### **ARTICLE 6.03 FIREWORKS\***

#### **Sec. 6.03.001 Area of jurisdiction**

The provisions of this article shall apply to all territory within the city limits. (Ordinance 2006-01-108, sec. I, adopted 1/5/06)

#### **Sec. 6.03.002 Definitions**

*Fireworks.* Any sparkler, bottle rocket, skyrockets, torpedoes, squibs, fire balloons, star shells, gerbs, firecracker, roman candle, smoke bomb, or any other device used to obtain a visible or audible pyrotechnic display, explosion, deflagration or detonation. (Ordinance 2006-01-108, sec. II, adopted 1/5/06)

#### **Sec. 6.03.003 Penalty**

Any person who violates a provision of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty provided in section 1.01.009 of this code. (Ordinance 2006-01-108, sec. IV, adopted 1/5/06; Ordinance adopting Code)

#### **Sec. 6.03.004 Discharge of fireworks**

Fireworks may be discharged within the city limits on the following days and times only if there is not a burn ban in effect set by the county:

- (1) July 2nd, 3rd, 4th: 2:00 p.m. through 11:00 p.m.
- (2) December 29th and 30th: 2:00 p.m. through 11:00 p.m.
- (3) December 31st 2:00 p.m. through January 1st 1:00 a.m.

(Ordinance 2006-01-108, sec. III, adopted 1/5/06)

---

\* **State law references**—Authority of municipality to regulate use of fireworks, V.T.C.A., Local Government Code, sec. 342.003; fireworks and fireworks displays, V.T.C.A., Occupations Code, ch. 2154; authority of city to prohibit or further regulate fireworks, V.T.C.A., Occupations Code, sec. 2154.004.



# CHAPTER 7

## HEALTH AND SANITATION

ARTICLE 7.01 GENERAL PROVISIONS .....	7-7
ARTICLE 7.02 TRASH, WEEDS AND OTHER UNSANITARY CONDITIONS .....	7-7
Sec. 7.02.001 Storing or keeping garbage, trash or junk; dumping .....	7-7
Sec. 7.02.002 Removal of heavy accumulations of debris .....	7-8
Sec. 7.02.003 Duty to keep sidewalk, parkway and alleyway clean.....	7-8
Sec. 7.02.004 Grass and weeds .....	7-9

[Next page is 7-7.]



**ARTICLE 7.01 GENERAL PROVISIONS\***

**(Reserved)**

**ARTICLE 7.02 TRASH, WEEDS AND OTHER UNSANITARY CONDITIONS†**

**Sec. 7.02.001 Storing or keeping garbage, trash or junk; dumping**

(a) Prohibited acts and conditions.

- (1) Storing or keeping garbage, trash and rubbish. The storing or keeping of any and all stacks, heaps or piles of old lumber, refuse, junk, old cars or machinery or parts thereof, garbage, trash, rubbish, scrap material, ruins, demolished or partially demolished structures or buildings, or piles of stones, bricks or broken rocks on any premises bordering any public street in the city so as to produce an unsightly and ugly appearance or which may harbor reptiles or rodents, create a fire hazard or result in unsanitary conditions is hereby declared to be a public nuisance and unlawful.
- (2) Dumping. The dumping, unauthorized placing or depositing of any trash, rubbish, garbage, tin cans, refuse, grass, weeds, scrap materials, offal, dead animals or junk in or upon any street, alley, sidewalk, branch, creek, ditch or gutter or along or upon the sides thereof in the city is hereby declared to be a public nuisance and unlawful.

(b) Notice of violation; abatement by city.

- (1) Notice of violation. If the owner of property fails or refuses to comply with subsection (a) of this section, the city shall give written notice to the property owner. The notice shall be delivered to the owner or mailed to the owner's post office address. If delivery in person is not possible or if the owner's post office address is unknown, notice shall be given by publication in the local newspaper at least twice within ten (10) consecutive days.
- (2) City may correct violation. If, at the expiration of ten (10) days after delivery, mailing or publication of the notice, the owner fails to correct the violation, the city may enter upon the property and do the work, or pay for the work to be done, as necessary to correct the violation.
- (3) Owner assessed costs. A statement of the costs incurred by the city in correcting a violation shall be mailed to the property owner. The costs shall include an administrative fee in the amount set forth in the fee schedule in appendix A of this code. The statement shall be due within thirty (30) days of the date of mailing.

---

\* **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; authority of city to define and declare nuisance, V.T.C.A., Local Government Code, sec. 217.002.

† **State law references**—Municipal regulation of sanitation, V.T.C.A., Health and Safety Code, ch. 342; illegal dumping, V.T.C.A., Health and Safety Code, sec. 365.012.

- (4) Lien to secure costs. If the statement is not timely paid, the city may file a statement with the county clerk of the costs incurred, including administrative costs. Upon filing the statement, the city shall have a privileged lien on the land upon which the costs were incurred, second only to tax liens and liens for street improvements. The amount of the lien shall include ten (10) percent on the delinquent amount from the date payment was made by the city. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city. To collect the costs, suit may be instituted and recovery and foreclosure had in the name of the city.
- (5) Appeal of costs imposed. Within fifteen (15) days of the date the statement of costs is mailed to the owner of the premises, the owner may appeal the reasonableness of the charges billed for abating the condition to the city council by filing a written statement with the city mayor or his designee, stating why the charges are unreasonable. The appeal shall be submitted to the city council for its review within a reasonable time after filing. If the council finds the charges unreasonable, it shall assess the costs as it deems reasonable. The administrative charge shall not be appealable.

(Ordinance 1998-05-0014, secs. 4-3, 4-3.1, adopted 3/9/98; Ordinance adopting Code)

**Sec. 7.02.002      Removal of heavy accumulations of debris**

Heavy accumulations such as brick, broken concrete, rocks, stones, ashes, lumber, clinkers, cinders, dirt, plaster, sand, gravel, automobile frames, dead trees and other bulky, heavy material shall be disposed of as required by the city at the expense of the owner or person controlling same or upon payment of the actual cost of such removal plus ten (10) percent of such cost to the city. (Ordinance 1998-05-0014, sec. 4-4, adopted 3/9/98)

**Sec. 7.02.003      Duty to keep sidewalk, parkway and alleyway clean**

(a) It shall be unlawful for any owner, tenant, or lessee of a premises to allow grass, weeds, or other vegetation over twelve (12) inches in height, trash, rubbish, filth, or debris to be upon the abutting or adjacent sidewalk, parkway, or alleyway.

(b) Any such materials shall be removed by the owner, tenant, or lessee of the premises and placed in trash receptacles or disposed of in a manner as required by this code.

(c) It is a defense to prosecution hereunder that:

- (1) The premises are unfenced and are maintained in a manner consistent with the provisions of this section at all points on the premises within one hundred (100) feet from the edge of any open street.
- (2) The premises are fenced and are maintained in a manner consistent with the provisions of this section at all points from the street to the fence or one hundred (100) feet from the edge of any open street, whichever is the less distance.
- (3) The vegetation which is over twelve (12) inches in height is wildflowers, but only until such time as seeds have matured following the final blooming of the majority of the plants.

(d) Failure to comply with the requirements of this section shall be and hereby is declared to constitute a nuisance subject to citation or abatement as provided in this article.

(Ordinance 1998-05-0014, sec. 4-5, adopted 3/9/98)

**State law reference**—Authority of type A general-law municipality to require removal of weeds, unclean matter or trash from street, sidewalk or gutter, V.T.C.A., Transportation Code, sec. 311.003.

**Sec. 7.02.004 Grass and weeds**

(a) A person commits an offense if he is an owner, occupant, or person in control of occupied or unoccupied premises containing less than five (5) acres of land in the city and permits weeds, grass, or other vegetation located on the premises to grow to a height greater than twelve (12) inches.

(b) A person commits an offense if he is an owner, occupant, or person in control of occupied or unoccupied premises containing five (5) acres of land or more and which contains habitable buildings in the city and permits weeds, grass, or other vegetation located within one hundred (100) feet of the buildings to grow to a height greater than twelve (12) inches.

(c) It shall be a defense to prosecution under this section that the vegetation is any of the following:

- (1) Agricultural crops, except grass or hay;
- (2) Cultivated trees;
- (3) Cultivated shrubs;
- (4) Flowers or other decorative ornamental plants under cultivation; or
- (5) Wildflowers, but only until such time as seeds have matured following the final blooming of the majority of the plants.

(d) It shall be the duty of any person having supervision or control of any lot, tract, or parcel of land, or any portion thereof, to cut or cause to be cut and removed as necessary to comply with this section, all such grass, weeds, or vegetation on the property as often as may be necessary to comply with the provisions of this section.

(e) The provisions of this section shall be applicable to all railroad rights-of-way within the city.

(Ordinance 1998-05-0014, sec. 4-12, adopted 3/9/98; Ordinance 2007-12-127, sec. 1, adopted 9/18/07)



# CHAPTER 8

## OFFENSES AND ADDITIONAL PROVISIONS

ARTICLE 8.01 GENERAL PROVISIONS .....	8-7
ARTICLE 8.02 WEAPONS .....	8-7
Sec. 8.02.001 Discharge of firearms .....	8-7
ARTICLE 8.03 NOISE .....	8-7
Sec. 8.03.001 Prohibited noise .....	8-7
ARTICLE 8.04 ODORS .....	8-8
Sec. 8.04.001 Odor nuisances .....	8-8
ARTICLE 8.05 ABANDONED OR JUNKED VEHICLES .....	8-9
Sec. 8.05.001 Definitions .....	8-9
Sec. 8.05.002 Authority to take possession of abandoned vehicles .....	8-10
Sec. 8.05.003 Notice to owner and lienholders that abandoned vehicle has been taken into custody .....	8-10
Sec. 8.05.004 Abatement of junked vehicles .....	8-10
Sec. 8.05.005 Disposal of junked vehicles .....	8-11
Sec. 8.05.006 Enforcement .....	8-11

[Next page is 8-7.]





**ARTICLE 8.01 GENERAL PROVISIONS\***

**(Reserved)**

**ARTICLE 8.02 WEAPONS†**

**Sec. 8.02.001 Discharge of firearms**

- (a) Handguns or rifles. It shall be illegal for any person to discharge a handgun or rifle on property that is less than ten (10) acres in size.
- (b) Shotguns. It shall be unlawful for any citizen to discharge a shotgun on any lot which is less than 0.75 acres in size.
- (c) Penalty. Any person, individual, firm, corporation or association violating any provision of this section shall be deemed guilty of a misdemeanor, and shall upon conviction be fined in accordance with the general penalty provided in section 1.01.009 of this code. Each and every day such violation shall continue shall be deemed a separate offense.

(Ordinance 2009-06-145 adopted 10/20/09; Ordinance adopting Code)

**ARTICLE 8.03 NOISE\*\***

**Sec. 8.03.001 Prohibited noise**

- (a) It shall be unlawful for any person to make or cause any unreasonably loud, disturbing, unnecessary noise which causes or may cause material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof.
- (b) It shall be unlawful for any person to make or cause any noise of such character, intensity and continued duration as to substantially interfere with the comfortable enjoyment of private homes by persons of ordinary sensibilities.

---

\* **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.; municipal regulation of sanitation, V.T.C.A., Health and Safety Code, ch. 342.

† **State law references**—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.

\*\* **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.

(c) The following acts, among others, are declared to be noise nuisances in violation of this code, but such enumeration shall not be deemed to be exclusive:

- (1) The playing of any phonograph, television, radio or any musical instrument in such manner or with such volume, particularly between the hours of 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence;
- (2) The use of any stationary loudspeaker, amplifier or musical instrument in such manner or with such volume as to annoy or disturb persons of ordinary sensibilities in the immediate vicinity thereof, particularly between the hours of 10:00 p.m. and 7:00 a.m., or the operation of such loudspeaker, amplifier or musical instrument at any time on Sunday; provided, however, that the city council may make exceptions upon application when the public interest will be served thereby;
- (3) The blowing of any steam whistle attached to any stationary boiler or the blowing of any other loud or far-reaching steam whistle within the city limits, except to give notice of the time to begin or stop work or as a warning of danger;
- (4) The erection, excavation, demolition, alteration, or repair work on any building at any time other than between the hours of 6:00 a.m. and 8:30 p.m. Monday through Friday from June 1 to September 30; between 7:00 a.m. and 8:30 p.m. Monday through Friday from October 1 to May 31; between 8:00 a.m. and 8:30 p.m. on Saturday; and between 1:00 p.m. and 8:30 p.m. on Sunday; provided, however, that the city council may issue special permits for such work at other hours in case of urgent necessity and in the interest of public safety and convenience;
- (5) The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates or containers;
- (6) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by the creation of noises to any performance, show, theater, motion picture house, sale of merchandise or display which causes crowds of people to block or congregate upon the sidewalks or streets near or adjacent thereto.

(Ordinance 1998-05-0014, sec. 4-1, adopted 3/9/98)

## **ARTICLE 8.04 ODORS**

### **Sec. 8.04.001 Odor nuisances**

(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 cause 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.

(c) The following acts or conditions, among others, are declared to be odor nuisances in violation of this code, by 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 privies and other similar places;
- (3) 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;
- (4) Offensive odors from smoke from burning trash, rubbish, rubber, chemicals or other things or substances;
- (5) Offensive odors from stagnant pools allowed to remain on any premises or from rotting garbage, refuse, offal or dead animals on any premises.

(Ordinance 1998-05-0014, sec. 4-2, adopted 3/9/98)

## ARTICLE 8.05 ABANDONED OR JUNKED VEHICLES\*

### Sec. 8.05.001 Definitions

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

*Abandoned motor vehicle* means a motor vehicle that is inoperable and more than five (5) years old and left unattended on public property for more than forty-eight (48) hours or a motor vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours or a motor vehicle which has remained on private property without the consent of the owner or person in control of such property for more than forty-eight (48) hours or a motor vehicle left unattended on the right-of-way of a designated county, state or federal highway within this state for more than forty-eight (48) hours or for more than twelve (12) hours on a turnpike project constructed and maintained by the state turnpike authority.

*Antique auto* means a passenger car or truck that was manufactured in 1925 or before or a passenger car or truck that is at least thirty-five (35) years old.

*Junked vehicle* has the same definition as established in section 683.071 of the Texas Transportation Code.

*Motor vehicle* means a motor vehicle subject to registration under the Certificate of Title Act, V.T.C.A., Transportation Code, chapter 501, except that for purposes of sections 8.05.002 and 8.05.003, "motor vehicle" includes a motorboat, outboard motor or vessel subject to registration under V.T.C.A., Parks and Wildlife Code section 31.001 et seq.

---

\* **State law reference**—Regulation of abandoned and junked motor vehicles, V.T.C.A., Transportation Code, sec. 683.001 et seq.

*Special interest vehicle* means 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.

(Ordinance 1998-05-0014, sec. 4-6, adopted 3/9/98; Ordinance 2007-04-119 adopted 3/20/07; Ordinance adopting Code)

**Sec. 8.05.002 Authority to take possession of abandoned vehicles**

The police department may take into custody an abandoned motor vehicle found on public or private property. (Ordinance 1998-05-0014, sec. 4-7, adopted 3/9/98)

**Sec. 8.05.003 Notice to owner and lienholders that abandoned vehicle has been taken into custody**

When an abandoned motor vehicle is taken into custody, the police department shall notify, not later than the tenth day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lienholders of record pursuant to the Certificate of Title Act, V.T.C.A., Transportation Code, chapter 501, or V.T.C.A., Parks and Wildlife Code 31.001 et seq., that [the vehicle has been taken into custody. The notice shall set forth] the vehicle identification number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, and inform the owner and any lienholders of their right to reclaim the motor vehicle not later than the twentieth (20th) day after the date of the notice, on payment of all towing, preservation and storage charges resulting from placing the vehicle in custody, or garagekeeper's charges if notice is under chapter 683 of the Texas Transportation Code. (Ordinance 1998-05-0014, sec. 4-8, adopted 3/9/98)

**Sec. 8.05.004 Abatement of junked vehicles**

(a) Authorized. The city may abate and remove a junked vehicle or a part of a junked vehicle as a public nuisance from private property, public property or public rights-of-way as provided in this section.

(b) Notice to remove vehicle on private property. For such nuisance on private property, the city shall give not less than ten (10) days' notice stating the nature of the public nuisance on private property, that it must be removed and abated within ten (10) days and that a request for a hearing must be made before expiration of the ten-day period. The notice shall be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lienholder of record and the owner or occupant or occupant [sic] of the private premises on which the public nuisance exists. If any notice is returned undelivered by the United States Postal Service, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

(c) Notice to remove vehicle on public property. For such nuisance on public property, the city shall give not less than ten (10) days' notice, stating the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within ten (10) days and that a request for a hearing must be made before expiration of the ten-day period. The notice shall be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lienholder of record and the owner or occupant

or occupant [sic] of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the notice is returned undelivered by the United States Postal Service, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

(d) Vehicles not to be made operable after removal. The vehicle may not be reconstructed or made operable after it has been removed.

(e) Hearing. A public hearing shall be held before the removal of the vehicle or vehicle part as a public nuisance. The hearing shall be held before the city council or official as designated by the city council, if a hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located, within ten (10) days after service of notice to abate the nuisance. A resolution or order requiring the removal of a vehicle or vehicle part must include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site.

(f) Notice to state department of transportation. Notice shall be given to the state department of transportation not later than the fifth day after the date of removal. The notice shall identify the vehicle or vehicle part. The department shall immediately cancel the certificate of title to the vehicle pursuant to the Certificate of Title Act, V.T.C.A., Transportation Code, chapter 501.

(g) Exceptions. The procedures in this section shall not apply to a vehicle or vehicle part that 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 vehicle part that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or an unlicensed operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so 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.

(Ordinance 1998-05-0014, sec. 4-9, adopted 3/9/98)

**Sec. 8.05.005 Disposal of junked vehicles**

A junked vehicle or vehicle part may be disposed of by removal to a scrap yard, demolisher or any suitable site operated by the city for processing as scrap or salvage. The process of disposal must comply with the provisions of section 8.05.004. The city may transfer the vehicle or vehicle parts to a disposal site if the disposal is only as scrap or salvage. (Ordinance 1998-05-0014, sec. 4-10, adopted 3/9/98)

**Sec. 8.05.006 Enforcement**

The person authorized by the city council to administer the procedures authorized by this article may enter private property for the purposes specified in the procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. (Ordinance 1998-05-0014, sec. 4-11, adopted 3/9/98)



# CHAPTER 9

## PLANNING AND DEVELOPMENT REGULATIONS

ARTICLE 9.01 GENERAL PROVISIONS .....	9-7
ARTICLE 9.02 SUBDIVISION ORDINANCE .....	9-7
Sec. 9.02.001    Adopted .....	9-7
ARTICLE 9.03 ZONING ORDINANCE .....	9-7
Sec. 9.03.001    Adopted .....	9-7
ARTICLE 9.04 PLANNING AND ZONING COMMISSION .....	9-7
Sec. 9.04.001    Creation and composition.....	9-7
Sec. 9.04.002    Function.....	9-8
Sec. 9.04.003    Operating rules and procedures .....	9-8
Sec. 9.04.004    Public hearing.....	9-8
EXHIBIT A SUBDIVISION ORDINANCE .....	9A-3
EXHIBIT B ZONING ORDINANCE.....	9B-3

[Next page is 9-7.]





**ARTICLE 9.01 GENERAL PROVISIONS\***

**(Reserved)**

**ARTICLE 9.02 SUBDIVISION ORDINANCE†**

**Sec. 9.02.001 Adopted**

The subdivision ordinance, Ordinance 2011-03-161, adopted by the city on June 21, 2011, as amended, is included at the end of this chapter as exhibit A. Due to the nature of the subdivision ordinance and the technicalities involved in adopting or amending it, such ordinance is printed herein as enacted, with only nonsubstantive formatting and style changes. Capitalization, punctuation and numbering of articles, sections and subsections have been retained as enacted. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended section. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets. (Ordinance adopting Code)

**ARTICLE 9.03 ZONING ORDINANCE\*\***

**Sec. 9.03.001 Adopted**

The comprehensive zoning ordinance, Ordinance 2010-01-149, adopted by the city on January 19, 2010, as amended, is included at the end of this chapter as exhibit B. Due to the nature of the zoning ordinance and the technicalities involved in adopting or amending it, such ordinance is printed herein as enacted, with only nonsubstantive formatting and style changes. Capitalization, punctuation and numbering of articles, sections and subsections have been retained as enacted. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended section. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets. (Ordinance adopting Code)

**ARTICLE 9.04 PLANNING AND ZONING COMMISSION**

**Sec. 9.04.001 Creation and composition**

There is hereby created and established within the city, a city planning and zoning committee, which shall be subject to the jurisdiction of the city council. The planning and zoning committee

---

\* **State law references**—Planning and zoning generally, V.T.C.A., Local Government Code, chs. 211, 212, 371; zoning commission, V.T.C.A., Local Government Code, sec. 211.007.

† **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.

\*\* **State law reference**—Municipal zoning authority, V.T.C.A., Local Government Code, ch. 211.

shall be composed of five (5) members, three (3) of whom shall constitute a quorum for the transaction of business. The members shall be resident citizens and qualified voters of the city. Members shall be appointed by the city council for a term of office of two (2) years, provided however, that two (2) members shall be initially appointed for a term of one (1) year, with those terms being for two (2) years thereafter. All vacancies on the planning and zoning committee shall be filled by appointment by the city council for the unexpired term of the vacated member. (Ordinance 2004-01-096, sec. 1, adopted 1/11/04; Ordinance 202103-03-222 adopted 3/1/21)

**Sec. 9.04.002      Function**

(a) It shall be the function of the planning and zoning committee to review, investigate, hold hearings as necessary and required and arrive at specific conclusions and recommended actions on specific city council assigned projects. A written report and verbal/visual presentation shall be presented to the city council within project specified time constraints. The report shall contain recommendations as to the final disposition of the project. Any additional recommendations as to possible future related project actions will also be included.

(b) All documentation of the projects will be managed and maintained by the committee utilizing committee personnel and resources. If additional resources are needed to carry out project requirements, the committee will present such needs to the city council for their consideration.

(c) A system of priorities shall be established to ensure timely and orderly project management. This priority system shall be approved by the city council prior to being instituted by the committee.

(Ordinance 2004-01-096, sec. 2, adopted 1/11/04; Ordinance 202103-03-222 adopted 3/1/21)

**Sec. 9.04.003      Operating rules and procedures**

The planning and zoning committee shall develop its own operating rules and procedures, including but not limited to the selection of officers, the time and places for holding its meetings as well as other matters that the committee deems proper. (Ordinance 2004-01-096, sec. 3, adopted 1/11/04; Ordinance 202103-03-222 adopted 3/1/21)

**Sec. 9.04.004      Public hearing**

Any public hearing required by the planning and zoning committee may be held jointly with the city council, with proper and legal notice being given for both bodies. The city council shall take no action on any matter related to zoning, until a final written project report has been received by the council from the planning and zoning committee. (Ordinance 2004-01-096, sec. 4, adopted 1/11/04; Ordinance 202103-03-222 adopted 3/1/21)

**EXHIBIT A**

**SUBDIVISION ORDINANCE**

Article I. General Procedures ..... 9A-3

    Section 1-1. Authority, Applicability and Exemptions ..... 9A-3

    Section 1-2. Stages of Platting..... 9A-4

    Section 1-3. Definitions..... 9A-5

    Section 1-4. Annexation Regulations ..... 9A-7

    Section 1-5. Time for Decision..... 9A-7

Article II. Platting Procedures ..... 9A-7

    Section 2-1. Complete Application Required..... 9A-7

    Section 2-2. Preliminary Plat..... 9A-8

    [Section 2-3. Reserved]..... 9A-13

    Section 2-4. Final Plat ..... 9A-13

    Section 2-5. Construction Management ..... 9A-20

    Section 2-6. Minor Plats ..... 9A-24

    Section 2-7. Waivers ..... 9A-25

    Section 2-8. Proportionality Appeal ..... 9A-26

    Section 2-9. Determination of Vested Rights ..... 9A-30

    Section 2-10. Development Plat ..... 9A-33

Article III. Subdivision Standards ..... 9A-33

    Section 3-1. Adequate Public Facilities Policy..... 9A-33

    Section 3-2. Utility Connection Regulations ..... 9A-36

    Section 3-3. Road Adequacy Regulations ..... 9A-41

    Section 3-4. Drainage Adequacy Regulations ..... 9A-44

    Section 3-5. Water System Design Standards ..... 9A-45

    Section 3-6. Wastewater System Design Standards ..... 9A-46

    Section 3-7. Street Design Standards ..... 9A-47

    Section 3-8. Drainage System Design Standards ..... 9A-50

    Section 3-9. Sidewalks ..... 9A-51

    Section 3-10. Easements..... 9A-51

    Section 3-11. Lots..... 9A-52

    Section 3-12. Blocks..... 9A-53

    Section 3-13. Perimeter Landscaping and Decorative Fences and Walls..... 9A-53

    Section 3-14. Subdivision Entry Features ..... 9A-54

    Section 3-15. Park Land Dedication and in Lieu Fees ..... 9A-55

    Section 3-16. Utilities Underground..... 9A-57

[Article IV. Reserved] ..... 9A-57

Article V. Construction ..... 9A-57

    Section 5.01. General ..... 9A-57

    Section 5.02. Inspection ..... 9A-58

    Section 5.03. Final Inspection..... 9A-59

    Section 5.04. Record Drawings..... 9A-59

    Section 5.05. Maintenance Bond..... 9A-59

    Section 5.06. Acceptance by the City ..... 9A-59

[This page intentionally left blank.]

**EXHIBIT A**

**SUBDIVISION ORDINANCE**

**ORDINANCE NO. 2011-03-161\***

Section 1. That a new text document, being a new Subdivision Regulations for the City of New Fairview is adopted to replace Articles I, 2, 3, and 4 of Ordinance No. 1996-01-0005 with the new Subdivision Regulation being dated June 21, 2011 and provided herein as Exhibit “A,” Articles 1, 2, 3, and 4 of Ordinance No. 1996-01-0005 being repealed.

Section 2. That this Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance.

Section 3. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portion of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. Any violation of this ordinance is considered a class C misdemeanor punishable by a fine not to exceed two thousand dollars (\$2000.00) for each occurrence.

Section 5. This Ordinance shall take effect from and after its date of passage in accordance with law, and it is so ordained.

**Article I. General Procedures**

**Section 1-1. Authority, Applicability and Exemptions**

(a) Authority. These subdivision regulations are adopted under the authority of Tex. Loc. Gov’t Code Ch. 212, subchapters A and B. The subdivision regulations expressly extend to all areas inside the City limits and throughout the City’s extraterritorial jurisdiction.

(b) Applicability. The subdivision regulations apply to any non-exempt land division or development within the corporate boundaries of the City and within its extraterritorial jurisdiction. A final plat, a development plat or a minor plat shall be approved prior to any non-exempt land division or development.

---

\* **Editor’s note**—The previous subdivision ordinance, Ordinance 1996-01-005 adopted 7/14/97, consisted of articles 1–7. Articles 1–4 were repealed by Ordinance 2011-03-161. At the direction of the city, article 5 (Construction) has been retained. Articles 6 (Design Criteria) and 7 (Construction Standards) have been omitted as replaced by the adopted TCSS Manual. References to “City Manager” were changed to “City Administrator” without notation. References to a “Charter” were omitted without notation.

(c) Subdivision Plat Exemptions. The following land divisions are exempt from the requirements of the subdivision regulations applicable to subdivision plats:

- (1) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration are intended;
- (2) Use of existing cemeteries complying with all State and local laws and regulations;
- (3) A division of land created by order of a court of competent jurisdiction;
- (4) A division of land that results in the creation of two or more parcels, each of which is greater than five acres inside the City limits, or each of which is greater than ten acres within the City's extraterritorial jurisdiction, when each parcel has direct access to an existing public street, and no dedication of public facilities is required under these subdivision regulations in connection with the division; and
- (5) Creation of a remainder tract.

(d) Development Plat Exemptions. The following land divisions are exempt from the requirements of the subdivision regulations applicable to development plats:

- (1) Any development activity associated with a subdivision plat that conforms to the requirements of these regulations applicable to such plats;
- (2) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration are intended;
- (3) Use of existing cemeteries complying with all State and local laws and regulations;
- (4) Bona fide agricultural activities;
- (5) Construction of agricultural accessory structures and related development activities; and
- (6) Construction of a single-family dwelling and related accessory structures and development activities.

(e) Waiver of Regulations by Council. The City may waive any regulation contained herein upon determining, by the Council, that the observance of such regulation would create an unnecessary hardship and/or such regulation is not applicable to the development or current policies of the City.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 1-2. Stages of Platting**

(a) Inside City. Within city limits, a subdivision plat may be approved in two stages:

- (1) Preliminary Plat; and
- (2) Final Plat.

(b) Within ETJ. Within the extraterritorial jurisdiction of the City, only a final plat is authorized, unless the land to be platted is subject to an approved development agreement, in which case a preliminary plat application may be submitted, as authorized by the agreement.

(c) Combined Plats Prohibited. An applicant may not submit applications for approval of a preliminary plat and a final plat simultaneously.

(d) Development Plats. A development plat shall be approved prior to development of any tract or parcel for which no subdivision plat is required, or prior to development of any lot in a subdivision for which dedication of any right-of-way for construction or maintenance of public improvements is required by these regulations. A development plat shall be required prior to approval of a manufactured home rental community.

(Ordinance 2011-03-161 adopted 6/21/11)

### **Section 1-3. Definitions**

For the purpose of interpreting these subdivision regulations, certain terms, phrases and words used herein shall have the meaning hereinafter as follows:

Alley: A minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular and utility service access to the back or side of properties otherwise abutting on a street.

Amending Plat: A revised plat correcting errors or making minor changes to the original recorded final plat.

Building Setback Line: the line on a plat delineating the nearest point to which buildings may be located to a street line, alley line or building lot line.

Commission: The planning and zoning commission of the city.

Dead-end street: A street, other than a cul-de-sac, with only one outlet.

Development Plat: A plat authorized under Tex. Loc. Gov't Code ch. 212, subchapter B, depicting a lay-out of development for a proposed tract or lot and providing for supporting public facilities.

Engineer: A person duly authorized under the provisions of the Texas Engineering Practice Act, as heretofore or hereafter amended, to practice the profession of engineering, and when reference is made to city engineer, the designation means either an engineer directly employed by the city or the city's engineering consultants, as the case may be.

Inspector: A person duly authorized by the City Administrator who may be employed by the city or by the city's engineering consultants, as the case may be, and designated to inspect any portion or all of the construction performed in the subdivision either on a part-time or full-time basis. His duties shall consist of inspecting all work during construction and/or after completion to determine compliance with the plans, specifications and subdivision regulations, with authority to stop the work during construction for noncompletion, if the work is defective.

Local residential or minor street: A public thoroughfare which is intended primarily to serve as access to residential property within a neighborhood interior or limited residential district and is not aligned or located to attract other than limited local traffic movements.

Lot: An undivided tract or parcel of land having frontage on a public street and which is, or in the future, may be offered for sale, conveyance, transfer or improvement as a building site; which is designated as a district and separate tract.

Minor Plat: A proposed plat with no more than four contiguous lots, with said lot or lots fronting on an existing street, and not requiring the creation of any new street or any public improvements.

Plat: the map, drawings or chart on which a subdivider's or developer's plan is presented and which he submits for approval. The term "plat" includes a preliminary plat, final plat, minor plat or development plat, as the context may indicate.

Replating (resubdivision): Replating is the rearranging of any part of a block, street, or alley of a previously platted subdivision.

Responsible Official: The official designated by the City Administrator to process or make administrative decisions regarding the processing or application of standards to plat applications under these subdivision regulations.

Street width: Street width is the shortest distance between the lines which delineate the right-of-way of the street.

Subdivider: Any person or agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner, of the land sought to be subdivided.

Subdivision: A division of any tract of land situated within the corporate limits, or within the extraterritorial jurisdiction of the city, into two (2) or more parts for the purpose of laying out any subdivision of any tracts of land or any addition of any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto for the purpose, whether immediate or future, of creating building sites. Subdivision, does not include the division of the land for agricultural purposes in parcels or tracts of five (5) acres or more which do not involve the creation of any new street, alley or easement of access.

Surveyor: A licensed state land surveyor or registered public surveyor as authorized by the state statutes to practice the profession of surveying.

TCSS Manual. The City of New Fairview's Technical Construction Standards and Specifications for the design and construction of subdivision improvements, a copy of which is maintained and available for inspection at the office of the City Secretary, and which is incorporated herein by reference. Until such TCSS Manual is prepared and adopted the engineering standards set forth in Articles 6 and 7 of the Subdivision Rules and Regulations (Ord. 96-01-0005), shall be effective.

(Ordinance 2011-03-161 adopted 6/21/11)



**Section 1-4. Annexation Regulations**

For newly annexed land, no plat or permits may be approved for any use or lot that is not in conformity with the use, use intensity, lot size and dimensional standards for the lowest intensity residential zoning district in the City’s adopted zoning ordinance, until the annexed property has been permanently classified on the zoning district map. Following annexation, no plat application will be deemed complete for any uses, intensity of use, dimensions or lot sizes not authorized in the lowest intensity zoning district, until the annexed property has been permanently classified on the zoning district map. (Ordinance 2011-03-161 adopted 6/21/11)

**Section 1-5. Time for Decision**

(a) Time Period/or Action. All plat applications shall be acted upon within 30 days from the date the application is determined to be complete pursuant to section 2-1, unless a waiver is submitted in accordance with subsection (b) below.

(b) Waiver Requests. An applicant may request in writing a waiver of the decision time. The waiver request shall contain a statement of the reasons for the waiver and the time for which a waiver is sought. Waiver requests which have not been received by the responsible official on or before the fourth calendar day prior to the Commission meeting at which action is to be taken on the plat application shall be deemed denied and action shall be taken on the plat application at such meeting as scheduled.

(c) Action on the Waiver Request. The decision-maker shall take action on the waiver request within the 30-day period for acting on the plat. Where the Commission or the Council is the decision-maker, action on the waiver request shall be taken at the meeting at which the plat is scheduled for decision. If the waiver is granted, action on the plat application shall be tabled for a time certain consistent with the approved waiver.

(Ordinance 2011-03-161 adopted 6/21/11)

**Article II. Platting Procedures**

**Section 2-1. Complete Application Required**

(a) Completeness Determination. Every application for approval of a preliminary plat, development plat, minor plat or final plat shall be subject to a determination of completeness by the responsible official. No application shall be accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of these Subdivision Regulations. The responsible official from time to time may identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in the Subdivision Regulations. The responsible official also may promulgate a fee for review of the application for completeness.

(b) Incompleteness as Grounds for Denial. The processing of an application by any City official or employee prior to the time the application is determined to be complete shall not be binding on the City as the official acceptance of the application for filing, and the incompleteness of the application shall be grounds for denial or revocation of the application. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of these Subdivision Regulations.

(c) Pre-application Conference. A property owner may request a pre-application conference with the responsible official for purposes of identifying requirements that are applicable to a proposed plat. The request shall be made in writing on a form prepared by the responsible official and shall state that any proposed development concept discussed at the pre-application conference is not intended as a plan of development or application for plat approval.

(d) Time for Making Determination. Following submission of a plan of development or plat application, the responsible official shall make a determination in writing whether the plan or application constitutes a complete application for a plat not later than the tenth business day after the date the application is submitted. The determination shall specify the documents or other information needed to complete the application and shall state the date the application will expire if the documents or other information is not provided.

(e) When Deemed Complete. An application for approval of a plat that is filed on or after the effective date of these subdivision regulations, or any subsequent plat application filed after approval of such initial plat, shall be deemed complete on the 11th business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete.

(f) Time for Completing Application. If an application is not completed on or before the 45th day after the application is submitted to the responsible official for processing the application in accordance with his or her written notification, the application will be deemed to have expired and it will be returned to the applicant together with any accompanying documents. Thereafter, a new application for approval of the plat must be submitted. The City may retain any fee paid for reviewing the application for completeness.

(g) Sequence of Applications. Notwithstanding any other provision of these subdivision regulations to the contrary, a plat application shall not be considered complete unless accompanied by a copy of the zoning ordinance or other certification verifying that the proposed use for which the application is submitted is authorized by the zoning district in which the property is located.

(h) Vested Rights. No vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied.

(Ordinance 2011-03-161 adopted 6/21/11)

## **Section 2-2. Preliminary Plat**

(a) Applicability. A preliminary plat must be prepared for all subdivisions within the corporate limits of the City. A preliminary plat is neither authorized nor required in the City's extraterritorial jurisdiction, unless expressly authorized by a valid and approved development agreement.

(b) Application. An application for approval of a preliminary plat along with fifteen (15) prints of the proposed subdivision shall be filed with the responsible official at least fourteen (14) days prior to the meeting of the planning and zoning commission at which time approval is asked. The preliminary plat shall be submitted on standard twenty-two (22) inch by thirty-four (34) inch paper at a scale of one inch equals one hundred (100) feet by the subdivider or his agent prior to

the sale, offering sale of any lots, tract or building site and prior to completion of final surveys of streets or lots prior to the grading or construction work on any streets and before any map of such subdivision is prepared in form for recording. A digital file on PDF file shall also be submitted with the application. The preliminary plat application shall be submitted in accordance with and be accompanied by the following in accordance with the manual of standard design, manual of water distribution, and manual of street and drainage:

- (1) Location map: A vicinity sketch or key map at a scale of not more than two hundred (200) feet to the inch for all subdivision exceeding five (5) acres in size or containing ten (10) or more lots. Such sketch or map shall show existing subdivisions, streets, property lines and the recorded names of the owners of the adjoining parcels. It shall also show how the streets and alleys of the proposed subdivision connect or relate to streets and alleys in neighboring subdivisions or undeveloped property and the relationship of the development to existing or proposed major and secondary thoroughfares.
- (2) Names of owner, etc. The preliminary plat shall show the name or names of the owner and/or subdivider and the name of the engineer, land planner or surveyor responsible for the preparation of the plat.
- (3) Identification: The proposed name of the subdivision (which must not be as similar to that of an existing subdivision as to cause confusion) and names of adjacent subdivisions and landowners shall be shown on the plat.
- (4) Boundary lines, etc. Location of boundary lines and width and location of platted streets and alleys within, or adjacent to, the property; physical features of the property, including location of any existing utilities with the size of sewer and water mains. The outlines of the wooded areas or the location of important individual trees is required. For all plats, contours must be shown at the intervals of two (2) feet. All elevations shown shall be referred to mean sea level datum. The acreage of the property is to be indicated.
- (5) Location and width of the proposed streets and other features: The location and width of the proposed streets, roads, lots, alleys, easements, widening of existing thoroughfares, and other features, and their location in relation to platted streets, alleys and easements in adjacent subdivisions shall be shown consistent with the Thoroughfare Plan or other adopted plan for roads and streets. The street layout shall be in conformity with a plan for the most advantageous development of the entire neighborhood areas. Whenever the proposed subdivision contains or is adjacent, or parallel to a railroad right-of-way or a major thoroughfare or freeway or expressway standards, provision shall be made for a street approximately parallel to and on each side of such right-of-way to provide reasonable use of the intervening land. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.
- (6) Preliminary Water and Sewer Layouts: The plan shall show the proposed location and size of the development's water distribution system and facilities, including valves, fittings, fire hydrants and line sizes. The plan shall also address the requirements for all off-site water lines and/or oversize requirements and shall conform to the City's Water Distribution System Master Plan. The Plan shall show the location of all proposed sanitary sewer collection lines and facilities, including

manholes, lift stations and preliminary line sizes. The plan shall also address the requirements of all off-site sanitary sewers and/or oversize requirements and shall conform to the City’s Wastewater Collection System Master Plan.

(7) Phasing: If the preliminary plat is to serve for a series of final plats, the phasing lines must be clearly indicated on the drawing. Subsequent final plats must conform to the approved phasing lines. Non-substantive difference in the phase lines may be permitted upon approval by City Staff. However, substantive differences will require an amended preliminary plat to be approved. The measure of what is substantive shall rest totally on the opinion of the City Staff.

(7) [(7.1)] Plat contents: The horizontal scale of the preliminary plat shall be not less than one hundred (100) feet to the inch and the plat shall also show:

- a. North point, scale and date;
- b. The boundary line, accurate in scale, of the tract to be submitted;
- c. The names of all proposed streets;
- d. The layout, number, and approximate dimension of all proposed lots or building tracts and the square feet of each;
- e. All parcels of land intended to be dedicated to public use reserved for the common use of owners of lots or sites in the subdivision, and the acreage;
- f. Any and all arrangement of lots, building lines or streets proposed;

(8) Profiles and cross-sections: Profiles and cross-sections sufficient to ascertain that the preliminary plat proposals will function in accordance with the standards of the city.

(9) Zoning information: A designation shall be shown of the proposed uses of land within the subdivision that is, the classified type of residential use by zoning ordinance, location of business or classification of industrial sites by zoning ordinance classification, and sites for churches, schools, parks, or other special uses, and their acreage.

(10) Certificates: The following certifications shall be placed on the preliminary plat:

a. Review for Preliminary Approval:

Planning & Zoning Commission Chairman	Date
---------------------------------------	------

b. Approved for Preparation of Final Plat:

City Administrator, City of New Fairview, Texas	Date
---	------

- (11) Subdivider's Statement: A preliminary plat application shall be accompanied by a written statement, signed by the subdivider stating the developer will comply with all the city requirements in the city requirements in the proposed subdivision and all such proposals shall conform to or exceed the standards for such improvements prescribed by the city.
  - (12) Certification that all city taxes and fees have been paid.
- (c) Procedures
- (1) Planning and Zoning Commission Action. After review of the preliminary plat application by the responsible official and the city engineer, the application shall be scheduled for consideration by the Planning and Zoning Commission. The Commission shall decide whether to approve, approve with conditions or deny the preliminary plat application based on the criteria for approval in subsection (d).
  - (2) City Council Action. Following decision by the Planning and Zoning Commission, the City Council shall determine whether to approve, approve with conditions or deny the preliminary plat application, taking into consideration the action taken by the Commission, and the criteria for approval in subsection (d).
  - (3) Conditions. The Commission or the Council may impose such conditions to the approval of the preliminary plat application as are reasonably necessary to assure compliance with the criteria in subsection (d). Such conditions may address but are not limited to matters involving conformity with the City's zoning regulations, the availability and capacity of public improvements, or the phasing of development.
- (d) Criteria for Decision. The following criteria shall be used to determine whether the application for a preliminary plat shall be approved, approved with conditions, or denied.
- (1) The preliminary plat is consistent with the adopted Comprehensive Plan for New Fairview, including but not limited to the future land use map, the master thoroughfare plan and master facilities plans;
  - (2) The plat is consistent with all zoning requirements for the property, and any approved development agreement;
  - (3) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities conform to the master facilities plans for the facilities, including without limitation the water facilities, wastewater facilities, transportation, drainage and other master facilities plans;
  - (4) The plat meets all other requirements of these subdivision regulations;
  - (5) The plat meets any county standards to be applied under an interlocal agreement between the City and a county under Tex. Loc. Gov't Code ch. 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county.

(e) Effect of Approval. Approval of a preliminary plat shall authorize the subdivider to submit construction plans for approval by the City Engineer and, upon approval of such plans, to construct public improvements to serve the subdivision in accordance therewith. Approval of a preliminary plat also shall authorize the subdivider to seek approval of a final plat for the land subject to the preliminary plat. The responsible official shall not accept any engineering plans until such preliminary plat has been approved by the city council. No excavation, grading, tree removal or site clearing activities shall occur prior to approval of the preliminary plat and the construction plans.

(f) Lapse and Extension.

(1) Expiration of plats. The applicant shall submit a final plat to the City for the entire area for which a preliminary plat has been approved, within nine (9) months of the date of approval or conditional approval of the preliminary plat. If the property owner fails to submit a final plat application within such period, the preliminary plat shall lapse and all further proceedings concerning the subdivision shall terminate. The applicant shall be required to submit a new preliminary plat, as required by this Chapter, subject to all zoning and subdivision standards then in effect.

(2) Extension and reinstatement procedure.

- a. Sixty days prior to the lapse of approval for a preliminary plat, the property owner may petition the Planning and Zoning Commission to extend or reinstate the approval. Such petition shall be considered at a public meeting of the Commission.
- b. In determining whether to grant such request, the Commission shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, the extent to which the property owner agrees to abide by newly adopted subdivision regulations, and any changed conditions in the surrounding area which would make an extension undesirable. The Commission shall extend its approval of the plat, or deny the request. In the event the Commission denies extension of the preliminary plat, the property owner must submit a new application for approval.
- c. The Commission may specify a shorter time for lapse of the extended plat that is applicable to original approvals, but shall not extend the period that a preliminary plat approval is valid to more than two years from the date of original approval.
- d. At any time following the lapse of approval of a preliminary plat, a developer may request, and the Commission may approve, at its discretion, a reinstatement of such preliminary plat for the purpose of considering and approving a final plat for all or a portion of the area covered by the preliminary plat. The Commission shall reinstate a preliminary plat only when it determines that it would be in the public interest to do so to avoid unnecessary review of a new preliminary plat, and when the pattern of development proposed by the plat would not be to the detriment of any nearby area or the general

development of the City. The Commission may establish such conditions on reinstatement as are necessary to ensure that the reinstated plat conforms to the City's comprehensive plan, including a requirement that the plat conform to the City's current subdivision standards.

(g) Revisions Following Approval of Preliminary Subdivision

- (1) Minor Changes. Minor changes in the design of the subdivision subject to a preliminary plat may be incorporated in an application for approval of a final plat without the necessity of filing a new application for approval of a preliminary plat. Minor changes shall include adjustment in street or alley alignments, lengths, and paving details, and adjustment of lot lines that do not result in creation of additional lots, provided that such changes are consistent with any approved priority applications.
- (2) Amendments. All other proposed changes to the design of the subdivision subject to an approved preliminary plat shall be deemed major amendments that require submittal and approval of a new application for approval of a preliminary plat before approval of a final plat[.]

(Ordinance 2011-03-161 adopted 6/21/11; Ordinance 2020-17-212, sec. 1, adopted 9/14/20; Ordinance adopting Code)

**[Section 2-3. Reserved]**

**Section 2-4. Final Plat**

(a) Purpose, Applicability and Effect

- (1) Purpose. The purpose of a final plat is to assure that the division or development of the land subject to the plat is consistent with all standards of these subdivision regulations and all other City ordinances pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, and that all other requirements and conditions have been satisfied or provided for to allow the plat to be recorded.
- (2) Applicability. Approval of a final plat shall be required prior to any non- exempt division of land and prior to any site preparation activities for a lot or tract of land that requires installation of public improvements on or adjacent thereto. A final plat application shall not be required for any land division that may be approved through the minor plat procedures in section 2-6.
- (3) Effect. Approval of a Final Subdivision Plat authorizes the responsible official to record the plat upon completion of public improvements or posting of security, and authorizes the subdivider to install any improvements in public rights-of-way under approved construction plans and a subdivision improvement agreement.

- (4) Phased Finals. Final plats of approved phases of a preliminary plat may be submitted for consideration and approval without each phase requiring a separate preliminary plat.

(b) Application. After the preliminary plat, where required, has been approved by the City Council, a final plat, in the form of a record, shall be prepared in accordance with the conditions of approval and submitted to the City's engineer and responsible official for review and transmission to the City Planning and Zoning Commission. Where no preliminary plat is authorized, the final plat application must meet all the submittal requirements for a preliminary plat that are not included in the list of application requirements that follow. Fifteen (15) prints and three (3) mylars shall be filed in the office of the responsible official at least fourteen (14) days prior to the meeting at which time final approval is asked. The mylar plat shall be submitted on a scale of one hundred (100) feet to one inch and one reduced print shall be of a size which will fit on an eighteen (18) inch by twenty-four (24) inch sheet for filing with the county. The final plat shall show, or be accompanied by the following information:

- (1) The names of the owner and/or subdivider and of the licensed state land surveyor, or registered engineer responsible for the plat.
- (2) The name of the subdivision and adjacent subdivisions, the names of streets (to conform whenever possible to existing street names) and numbers of lot and blocks, in accordance with alphabetical block arrangements and numerical lot arrangement. In case of branching streets, the lines of departure shall be indicated. (See general requirements)
- (3) An accurate boundary survey and description of the property, with bearings and distances referenced to survey lines and established subdivisions, and showing the lines of adjacent lands and the lines of adjacent streets and alleys, with their width and names. Streets, alley and lot lines in adjacent subdivisions shall be shown in dashed lines. North point, scale and date shall be shown.
- (4) Locations of proposed lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals fractions of feet, with the length of radii and of arcs of all curves, all angles, and with all other engineering information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points. Contours, with a minimum of two (2) feet, shall be shown as light, dashed lines. All elevations shown shall be referred to sea level datum. All lots or building sites shall conform to the standards prescribed by the zoning ordinance for the district or districts in which the subdivision is located. All streets, alleys, drainage and public utilities shall conform to the specifications of the city.
- (5) The locations of building lines on front and side streets and the location of utility easements.
- (6) An instrument of dedication, signed and acknowledged by the owner or owners and by all other parties who have a mortgage or lien interest in the property, showing all



restrictions, reservations, and/or easements, if any, to be imposed and reserved in connection with the addition. Such restrictions shall contain the following provisions, along with any other restrictions which may be imposed:

No house, dwelling unit or other structure shall be constructed on any lot in this addition by the owner or any other person until:

- a. Such time as the developer and/or owner has complied with all requirements of the Platting Ordinance of the City of New Fairview regarding improvements with respect to the entire block on the street and/or streets on which the property abuts (a corner lot shall be regarded as abutting on both intersection streets adjacent to such lot), including the actual installation of streets, water, sewer, drainage structures, and storm sewer and alleys, all according to the specifications of the City of New Fairview or
- b. Until the escrow deposit, sufficient to pay for the cost of such improvements, as determined by the city's engineer and/or city administrator, computed on a private commercial rate basis, has been made with the city secretary, accompanied by an agreement signed by the developer and/or owner, authorizing the city to make such improvements at prevailing private commercial rates, or have the same made by a contractor and pay for the same out of the escrow deposit, should the developer and/or owner fail or refuse to install the required improvements within the time stated in such written agreement, but in no case the city be obligated to make such improvements itself. Such deposit may be used by the owner and/or developer as progress payments as the work progresses in making such improvements by making certified requisitions to the city secretary, supported by evidence of work done; or
- c. Until the developer and/or owner files a corporate surety bond with the city secretary in a sum equal to the cost of such improvements for the designated area, guaranteeing the installation thereof within the time stated in the bond, which time shall be fixed by the city council of the City of New Fairview.

These restrictions with respect to required improvements are made to ensure the installation of such required improvements and to give notice to each owner and to each prospective owner of lots in the subdivision until said required improvements are actually made or provided for on the entire block on the street and/or streets on which the property abuts as described herein and in compliance with the City of New Fairview requirements or TCSS Manual.

- (7) A certificate of dedication of all streets, public highways, alleys, parks and other land intended for public use, signed by the owner or owners and by all other parties who

have mortgage or lien interests in the property and acknowledged before a notary public. All deed restrictions that are to be filed with the plat shall be shown or filed separately. The certificate of dedication shall be substantially in the following form:

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

I (we) the undersigned owner(s) of the land shown on this plat, and designated herein as the \_\_\_\_\_ subdivision to the City of New Fairview, Texas, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, water courses, drains, easements and public places thereon shown on the purpose and consideration therein expressed. I (we) further certify that all other parties who have a mortgage or lien interest in the \_\_\_\_\_ subdivision have been notified and signed this plat.

I (we) further acknowledge that the dedications and/or exactions made herein are proportional to the impact of the subdivision upon the public services required in order that the development will comport with the present and future growth needs of the City; I (we), my (our) successors and assigns hereby waive any claim, damage, or cause of action that I (we) may have as a result of the dedication of exactions made herein.

Owner  
Signature of Party with Mortgage or Lien Interest

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein stated.

Given upon my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My Commission Expires:

- (8) 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.
- (9) Certification by a registered engineer or a licensed state land surveyor, duly licensed by the state, to the effect that the plan represents a survey made by him, and that all the necessary survey monuments are correctly shown thereon.

- (10) The following certificate shall be placed on the plat after it has been finally approved by the City Council:

I hereby certify that the above and foregoing plat of \_\_\_\_\_ Addition to the City of New Fairview, Texas, was approved by the City Council of the City of New Fairview on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

This approval shall be invalid unless the approved plat for such addition is recorded in the office of the County Clerk of \_\_\_\_\_, County, Texas, within one hundred eighty (180) days from said date of final approval. Said addition shall be subject to all the requirements of the Subdivision Regulations of the City of New Fairview.

WITNESS OUR HANDS, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
City Secretary

- (11) The following certificates shall be placed on the plat, in a manner that will allow the filing of the certificates by the proper party.

- a. Recommended for final approval:

Planning & Zoning Commission	Date
------------------------------	------

- b. Approved:

City Administrator, City of New Fairview, Texas	Date
---	------

- (12) Final plats shall be accompanied by plan-profile sheets, twenty-four (24) inches by thirty-six (36) inches and platted to a scale of forty (40) feet to one (1) inch horizontal and four (4) feet to one inch vertical, for each proposed street in the subdivision. These plan-profiles shall show the existing ground and the proposed grade at five (5) points of cross-section; that is, at the centerline, the back-of-curb lines, and the property lines. The plan portion shall show the size and locations of all drainage structures, storm drains, curb inlets, etc., and the direction of flow of all stormwater. Plans shall show all public utilities needed to service the subdivision and should accompany the final plat and be approved by the city planning and zoning commission and be in compliance with the city standards.

- (13) Typical cross-sections shall be shown of the type and width of paving proposed for all streets. Curbs and gutters, pavement types and drainage structure design standards of the city, in effect at the time of submission of the plat, shall be used, subject to the approval of the city’s engineer and/or city administrator and city council.

(c) Procedures.

- (1) The Planning and Zoning Commission shall take action on the final plat as within thirty (30) days of the official filing date unless the applicant requests and consents in

writing to waive any time deadline for action upon the plat. If the final plat meets all the requirements of these subdivision regulations, the Planning and Zoning Commission shall approve the plat. If the plat does not meet the requirements of these subdivision regulations, the Planning and Zoning Commission shall disapprove the plat.

- (2) The City Council, following action by the Planning and Zoning Commission, shall finally decide whether to approve or deny the final plat application.

(d) Final Plat in ETJ. The only plat application authorized within the City's extraterritorial jurisdiction is a final plat application. The applicant may propose a subdivision of land that creates a remainder tract, as defined in section 2-2(c). The applicant must submit the information required by the City for a remainder tract with the application for final plat approval. The Planning and Zoning Commission and the City Council may approve the proposed subdivision, or require that the remainder tract be included within the final plat. If the City allows the applicant to create the remainder tract, the provisions of section 2-2(c) shall apply. No conceptual plan of development may accompany a final plat application in the City's extraterritorial jurisdiction where the final plat application does not contain all contiguous land in common ownership, unless the application also proposes a remainder tract. Where a conceptual plan of development is presented with a final plat application and designation of a proposed remainder tract, such conceptual plan shall be deemed denied with approval of the final plat application and designation of the remainder tract.

(e) Criteria for Decision. The following criteria shall be used to determine whether the application for a final plat shall be approved or denied.

- (1) The final plat conforms to the approved preliminary plat except for minor changes authorized under section 2-3(g) [2-2(g)] and that may be approved without the necessity of revising the approved preliminary plat. Where no preliminary plat is authorized, the final plat shall satisfy any criteria under section 2-3(d) [2-2(d)] for preliminary plat approval which are not identified below.
- (2) Where public improvements have been installed, the improvements conform to the approved construction plans and have been approved for acceptance by the City engineer.
- (3) Where the City Council has authorized public improvements to be deferred, the subdivision improvement agreement and surety have been executed and submitted by the property owner in conformity with section 2-6.
- (4) The final layout of the subdivision meets all standards for adequacy of public facilities contained in these subdivision regulations and City ordinances.
- (5) The plat meets any county standards to be applied under an interlocal agreement between the City and a county under Tex. Loc. Gov't Code ch. 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City within the county.
- (6) The plat conforms to City's adopted comprehensive plan, including its future land use map (within city limits), the master plans for current and future streets, alleys, parks, playgrounds, and public utility facilities, as well as extension of the City's

roads, streets, and public highways within its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities[.]

- (7) The plat conforms to the City's zoning regulations or regulations contained in an approved development agreement affecting the land, and all other applicable City ordinances and regulations.
- (f) Expiration and Extension. The approval of a final plat application shall remain in effect for a period of two years from the date the application was approved by the City Council, during which period the applicant shall submit any required revisions for approval and record the plat. If the final plat has not been recorded within the two-year period, final plat approval shall expire and the applicable plat shall be deemed null and void.
- (g) Recordation.
  - (1) After approval of the final plat, the responsible official shall record the final plat with the county clerk of the county in which the land is located upon the subdivider's performance of one of the following:
    - (i) Completion of the construction of required improvements prior to recordation; or
    - (ii) Filing of security in lieu of completing construction in accordance with section 2-6.
  - (2) Submittal of Record Plat Where Improvements Installed. Where public improvements have been installed prior to recording of the plat, the property owner shall submit a maintenance bond in accordance with section 2-6 from each contractor, three sealed sets of "as built" plans or record drawings, one sealed set of "as built" mylars, and a digital copy of all plans (in a format as determined by the City Engineer), bearing sealed certification by the design engineer that all public improvements have been constructed in compliance with all City construction standards. The property owner also shall submit copies of the approved final plat, revised to reflect the "as built" plans.
  - (3) Submittal of Record Plat Where Improvements Have Not Been Installed. Where public improvements have yet to be completed in connection with an approved final plat, the property owner shall have the approved final plat revised to reflect any changes required by the City Council.
  - (4) Signing and Recording. Upon receipt of a complete record plat application, the responsible official shall procure the signature of the mayor on the plat and shall promptly cause the plat to be recorded.

(Ordinance 2011-03-161 adopted 6/21/11; Ordinance 2020-17-212, secs. 2, 3, adopted 9/14/20)

**Section 2-5 Construction Management**

(a) Construction Plans. The City Engineer shall review and approve, approve with conditions or disapprove construction plans following approval of a preliminary plat, or where no preliminary plat is authorized, prior to application for final plat approval and within 30 business days after the plans have been determined to be complete in accordance with the procedures in section 2-1. Incomplete plans shall be returned to the applicant.

- (1) If construction plans are approved, the plans shall be marked “approved” and one set shall be returned to the applicant, and at least two sets shall be retained in the City’s files.
- (2) Once the construction plans are approved, the property owner shall provide additional sets of the approved plans to the City, as specified by the Engineering Director, for use during construction. A full set of the City-approved and stamped construction plans must be available for inspection on the job site at all times.
- (3) If the conditions of approval require revision(s) to the construction plans, one set shall be marked with objections noted (on the plans themselves and/or in memo format) and returned to the applicant for correction, whereupon the applicant’s engineer shall correct the plans as requested and resubmit them for decision. A properly revised set of construction plans shall be submitted to the City Engineer within 10 working days of receipt of the notice of the City’s Engineer’s decision.
- (4) Approval of construction plans authorizes the property owner to install public improvements in rights-of-way offered for dedication to the public under an approved preliminary or final plat.

(b) Timing of Public Improvements.

- (1) Completion Prior to Final Plat Approval. Except as provided below, after approval of a plat and before an approved final plat application is filed, the installation of all public improvements required to serve the subdivision, whether to be located off-site or on-site, including but not limited to water, wastewater, drainage, roadway and park improvements, shall be finally completed in accordance with the approved construction plans. The installation of improvements required for proper drainage and prevention of soil erosion on individual residential lots, and improvements on any common areas, also shall be finally completed prior to final plat approval in accordance with the approved construction plans.
- (2) Deeds in Escrow. As a condition of preliminary plat approval, the City Council may require the property owner to deposit deeds in escrow describing by metes and bounds street rights-of-way, park land, and easements required by these regulations, conveying such rights-of-way, park land and easements to the City, pending acceptance of improvements by the City and recordation of the final plat. In the event the property owner fails to complete the public improvements, and the improvements are deemed necessary for the preservation of the public health and safety, the City may compel the delivery and recording of the deeds in order to complete the improvements as required.

- (3) Installation after Final Plat Approval. The City Council on request of the applicant may defer the obligation to install one or more public improvements to serve the subdivision until after final plat approval. The request shall be submitted with an application for preliminary approval. If the subdivider elects not to file for preliminary approval, public improvements shall be installed after approval of the final plat. In either case, deferral of the obligation to install public improvements shall be conditioned on execution of a subdivision improvement agreement and sufficient surety to secure the obligations defined in the agreement.
  - (4) Off-Site Easements. All necessary off-site easements required for installation of off-site public improvements to serve the subdivision or development shall be acquired by the subdivider and conveyed solely to the City by a deed approved by the City Attorney.
- (c) Subdivision Improvement Agreement.
- (1) Obligations under Agreement. Whenever public improvements to serve the development are deferred until after final plat approval, the property owner shall enter into a subdivision improvement agreement by which the owner covenants to complete all required public improvements, including residential lot improvements for drainage or erosion control, and common area improvements, no later than two years following the date upon which the final plat is approved. The agreement shall be subject to review and approval by the City Attorney, and shall be approved by the City Council with approval of the final plat. The agreement shall contain the following provisions:
    - a. Covenants to complete the improvements;
    - b. Covenants to warranty the improvements for a period of two years following acceptance by the City;
    - c. Covenants to provide a maintenance bond in the amount of 100% of the costs of the improvements for such period;
    - d. Provisions for participation in the costs of the improvements by the City, if authorization has been obtained from the City Council and a performance bond for such improvements from the contractor, with the City as a co-obligee;
    - e. Provisions for securing the obligations of the agreement; and
    - f. Such other terms and conditions as are agreed to by the property owner and City.
  - (2) Covenants to Run with the Land. The subdivision improvement agreement shall provide that the covenants contained in the agreement run with the land and bind all successors, heirs and assignees of the property owner. All existing lienholders shall be required to execute the agreement or provide written consent to the covenants contained in the agreement. The City shall deliver a release to bona fide third party purchasers of individual lots when all required public improvements have been accepted by the City.

(d) Security for Completion of Improvements.

- (1) Security. Whenever the obligation to install public improvements to serve a subdivision or development is deferred until after approval of the final plat, the property owner shall provide sufficient security to ensure completion of the required public improvements. The security shall be in the form of one of the following:
  - a. A cash escrow with the City;
  - b. An irrevocable letter of credit drawn upon a state or national bank that has a regular business office in the state of Texas that (A) is of a term sufficient to cover the completion, maintenance and warranty periods, but not less than two years and (B) authorizes the City to draw upon the letter of credit by presenting to the issuer only a sight draft and a certificate signed by an authorized representative of the City attesting to the City's right to draw funds under the letter of credit;
  - c. A construction funding agreement under which funds for the construction of the required improvements are escrowed in Texas with an office of a state or national bank, under which (A) the City has the irrevocable right to withdraw funds, and (B) the subdivider may be permitted to draw funds to make payments towards the construction of the improvements as progress is verified; or
  - d. A first and prior lien on the property.
- (2) Amount and Acceptability. The security shall be issued in the amount of 125% of the cost estimate approved by the City Engineer for all public improvements associated with the subdivision. The security shall be subject to the approval of the City Attorney.
- (3) Security for Construction in Extraterritorial Jurisdiction. Where the land to be platted lies within the extraterritorial jurisdiction of the City, the security shall be in a form and contain such terms as are consistent with the interlocal agreement between the City and the county in which the land is located. In cases where the requirements governing the form and terms of the security are defined in such an agreement, they will supersede any conflicting provisions of subsections (1) and (2).
- (4) Partial Release. If, in the opinion of the responsible official and the City Engineer, the public improvements have commenced in good faith, a release for construction on up to five percent of the residential lots may be issued. A lot must have permanent street access installed to it prior to this release.
- (5) Remedies. In addition to all other remedies authorized in this article, where a subdivision improvement agreement has been executed and security has been posted and required public improvements have not been installed in accordance with the terms of the agreement, the City may:
  - a. Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;



- b. Obtain funds under the security and complete the improvements itself or through a third party; or
  - c. Assign its right to receive funds under the security to any third party, including a subsequent owner of the development in exchange for the subsequent owner's agreement and posting of security to complete the public improvements serving the tract.
- (e) Inspection and Acceptance of Public Improvements.
- (1) Inspections. Construction inspection shall be supervised by the City Engineer. Construction shall be in accordance with the approved construction plans. Any significant change in design required during construction shall be made by the subdivider's engineer, and shall be subject to approval by the City Engineer. If the City Engineer finds upon inspection that any of the required public improvements have not been constructed properly and in accordance with the approved construction plans, the property owner shall be responsible for completing and/or correcting the public improvements.
  - (2) Submission of As-Built Plans or Record Drawings. The City shall not accept dedication of required public improvements until the applicant's engineer has certified to the City Engineer, through submission of a detailed "as-built" record drawing or survey plat of the property and any off-site easements, the location, dimensions, materials, and other information establishing that the public improvements have been built in accordance with the approved construction plans. Each as-built sheet shall show all changes made in the plans during construction and on each sheet there shall be an as-built stamp bearing the signature of the engineer and date. Required formats include:
    - a. One (1) full-size mylar set (22" x 34" sheet size)
    - b. Electronic drawing files of:
      - (i) Final plat;
      - (ii) Water, wastewater and storm drainage layouts.
  - (3) Acceptance of Improvements. When the City Engineer has determined that the public improvements have been installed in accordance with the approved construction plans, the City Engineer shall accept such improvements on behalf of the City. Acceptance of the improvements shall mean that the property owner has transferred all rights to all the public improvements to the City for use and maintenance. The City Engineer may accept dedication of a portion of the required public improvements, provided adequate surety has been given for the completion of all of other improvements. Upon acceptance of the required public improvements, the Director shall issue a certificate to the property owner stating that all required public improvements have been satisfactorily completed.

- (4) Disclaimer. Approval of a preliminary or final plat by the City Council shall not constitute acceptance of any of the public improvements required to serve the subdivision or development. No public improvements shall be accepted for dedication by the City except in accordance with this section.
- (5) Acceptance of Improvements for Land in Extraterritorial Jurisdiction. Where the facilities to be constructed under the subdivision improvement agreement are located within the City's extraterritorial jurisdiction, and are to be dedicated to the county in which the land is located, the City Engineer shall inform the county that the public improvements have been constructed in accordance with approved construction plans, and are ready for acceptance by the county.
- (f) Maintenance and Warranty of Improvements.
  - (1) Maintenance During Construction. The property owner shall maintain all required public improvements during construction of the development.
  - (2) Bond. The owner shall covenant to warranty the required public improvements for a period of one year following acceptance by the City of all required public improvements and shall provide a maintenance bond in the amount of 100% of the costs of the improvements for such period. All improvements located within an easement or right-of-way shall be bonded.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 2-6      Minor Plats**

- (a) Applicability. An application for approval of a Minor Plat may be filed only when all of the following circumstances apply:
  - (1) The proposed division results in four or fewer lots;
  - (2) All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the requirements of these subdivision regulations; and
  - (3) The plat does not require the extension of any municipal facilities to serve any lot within the subdivision.
- (b) Decision. The responsible official shall decide whether to approve, approve with conditions, or deny the Minor Plat application.
- (c) Criteria for Decision. The responsible official, or the Planning and Zoning Commission on appeal, shall decide whether to approve, conditionally approve or deny the Minor Plat application based upon the following criteria:
  - (1) The minor plat application is consistent with all zoning requirements for the property, all other requirements of these subdivision regulations that apply to the plat, and standards of any approved development agreement;

- (2) All lots to be created by the plat already are adequately served by all required utilities and services, and
  - (3) The plat does not require the extension of any municipal facilities to serve any lot within the subdivision.
- (d) Expiration. The approval of a Minor Plat application shall remain in effect for a period of one year from the date that the application was approved or conditionally approved by the responsible official or the Planning and Zoning Commission on appeal, during which period the applicant shall submit any required revisions for approval and record the plat. If the Minor Plat has not been recorded within the one-year period, the Minor Plat approval shall expire and the plat shall be deemed null and void.
- (e) Recording. The property owner shall submit the approved Minor Plat, following any required revisions, to the responsible official, who shall cause the Minor Plat to be recorded in the property records of the county in which the land is located.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 2-7      Waivers**

The applicant may file a petition for waivers to the standards applicable to a preliminary plat, or where no preliminary plat application is authorized, to the standards applicable to a final plat. The waiver petition shall be decided by the Council in conjunction with the application for approval of the plat. The applicant bears the burden of proof to demonstrate that a waiver to the standards applicable to a development application should be granted. In deciding the waiver petition, the decision-maker shall apply the following criteria:

- (1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the waiver petition, such that the strict application of the provisions of these subdivision regulations to the plat application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;
- (2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner’s land;
- (3) The waiver is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
- (4) Granting the waiver petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
- (5) Granting the waiver petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of these regulations, or adversely affect the rights of owners or residents of surrounding property;
- (6) The hardship or inequity suffered by petitioner is not caused wholly or in substantial part by the petitioner;

- (7) The degree of waiver requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this section; and
- (8) Any special standards applicable to the waiver request have been satisfied.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 2-8 Proportionality Appeal**

(a) Definitions. For purposes of this section:

- (1) Public infrastructure improvement means a water, wastewater, roadway, drainage or park facility that is a part of one or more of the City’s public facilities systems.
- (2) Public facilities system means the collection of water, wastewater, roadway, drainage or park facilities owned or operated by or in behalf of the City for the purpose of providing services to the public, including existing and new developments.

(b) Purpose, Applicability & Effect.

- (1) Purpose. The purpose of a proportionality appeal is to assure that a requirement to dedicate, construct or pay a fee for a public infrastructure improvement imposed on a proposed plat as a condition of approval does not result in a disproportionate cost burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City’s public facilities systems.
- (2) Applicability. An appeal under this section may be filed by a property owner to contest any requirement to dedicate land, to construct improvements or to pay development fees, other than impact fees, for a public infrastructure improvement, which requirement is imposed under the City’s Subdivision Regulations, whether the requirement is applicable under uniform standards, or is imposed pursuant to an individual evaluation of the proposed subdivision.

(c) Proportionality Determination by City Engineer. Prior to a decision by the Planning and Zoning Commission on a preliminary plat application, or if no preliminary plat application is authorized, on a final plat application, the City Engineer shall prepare a report affirming that each public infrastructure improvement to be imposed as a condition of plat approval is roughly proportionate to the demand created by the development on the City’s public facilities systems, taking into consideration the nature and extent of the development proposed.

- (1) In making his proportionality determination, the City Engineer may rely upon categorical findings pertaining to on-site improvements; the proposed or potential use of the land; the timing and sequence of development in relation to availability of adequate levels of public facilities; impact fee studies or other studies that measure the demand for services created by the development and the impact on the City’s public facilities systems; the function of the public infrastructure improvements in serving the proposed development; the degree to which public infrastructure improvements to serve the subdivision are supplied by other developments; the anticipated participation by the City in the costs of such improvements; any reimbursements for the costs of public infrastructure improvements for which the

proposed development is eligible; or any other information relating to the mitigating effects of the public infrastructure improvements on the impacts created by the development on the City's public facilities systems.

- (2) Based upon his proportionality determination, the City Engineer shall affirm that the public infrastructure improvement requirements of the Subdivision Regulations do not impose costs on the developer for such improvements that exceed those roughly proportionate to those incurred by the City in providing public facilities to serve the development.
- (3) The City Engineer may promulgate any application requirements that may assist in making the proportionality determination required by this subsection.

(d) Commission Determination. The Commission shall take into account the City's Engineer's report concerning the proportionality of public infrastructure improvement requirements to be applied to a proposed preliminary or final plat application, as the case may be, in making its decision on the plat application, and shall identify any variation to the requirements that are to be included as conditions to plat approval.

(e) Appeals.

- (1) Who May Appeal. An appeal to the City Council under this section may be filed by a property owner or the applicant for a preliminary or final plat, in which a requirement to dedicate land for, construct or pay a fee, other than an impact fee, for a public infrastructure improvement has been applied or attached as a condition of approval, or as grounds for denying the plat application.
- (2) Time for Filing and Request for Extension of Time. The appeal shall be filed in writing within ten (10) days of the date the Planning and Zoning Commission takes action applying the public infrastructure improvement requirement to the plat application. The appeal shall be filed with the City Clerk and shall be forwarded to the City Council for consideration in conjunction with its deliberations on the plat application. The applicant may request postponement of consideration of the plat application by the City Council pending preparation of the study required by subsection (4), in which case the applicant shall also waive the statutory period for deciding plats for the time needed to decide the appeal by the City Council.
- (3) Form of Appeal. An appeal under this section shall allege that application of the standard or the imposition of conditions relating to the dedication, construction or fee requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's public facilities systems, or does not reasonably benefit the proposed development.
- (4) Study Required. The appellant shall provide a study in support of the appeal that includes the following information within 30 days of the date of appeal, unless a longer time is requested:
  - a. Total capacity of the City's water, wastewater, roadway, drainage or park system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the

development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.

- b. Total capacity to be supplied to the City's water, wastewater, roadway, drainage or park facilities system by the dedication of an interest in land, construction of improvements or fee contribution. If the plat application is proposed as a phased development, the information shall include any capacity supplied by prior dedication, construction or fee payments.
- c. Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land, construction of improvements, or fee payment. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.
- d. The amount of any City participation in the costs of oversizing the public infrastructure improvement to be constructed in accordance with the City's requirements.
- e. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication, construction or fee requirement imposed by the City.

(f) Land in Extraterritorial Jurisdiction. Where the subdivision or the public infrastructure improvements are located in the extraterritorial jurisdiction of the City and are to be dedicated to a county under an interlocal agreement under Tex. Loc. Gov't Code ch. 242, an appeal or study in support of the appeal shall not be accepted as complete for filing by the planning and zoning administrator unless the appeal or study is accompanied by verification that a copy has been delivered to the county in which the facilities are to be located.

(g) Processing Application. The City Engineer shall evaluate the appeal and supporting study and shall make a recommendation to the City Council based upon the information contained in the study, any comments received from the county, and the City Engineer's analysis based upon the same factors considered in making his original proportionality determination. Where the appeal is for relief from dedication of rights-of-way for or construction of a facility in the City's extraterritorial jurisdiction that is to be dedicated to a county under an interlocal agreement under Texas Local Government Code, Chapter 242, the City Engineer shall coordinate a recommendation with the county responsible for reviewing plats in the county.

(h) Decision. The City Council shall decide the appeal in conjunction with its decision on the plat application. The Council shall base its decision on the criteria listed in subsection (h)[i], and may take one of the following actions.

- (1) Deny the appeal, and impose the standard or condition on the plat application in accordance with the City Engineer's recommendation or the Planning and Zoning Commission's decision on the plat; or

- (2) Deny the appeal, upon finding that the proposed dedication, construction or fee requirements are inadequate to offset the impacts of the subdivision on the public facilities system for water, wastewater, roadway, drainage or park improvements, and either deny the plat application or require that additional public infrastructure improvements be made as a condition of approval of the application; or
- (3) Grant the appeal, and waive in whole or in part any dedication, construction or fee requirement for public infrastructure improvements to the extent necessary to achieve proportionality; or
- (4) Grant the appeal, and direct that the City participate in the costs of acquiring land for or constructing the public infrastructure improvement under standard participation policies.

(i) Criteria for Approval. In deciding an appeal under this section, the City Council shall determine whether the application of the standard or condition requiring dedication of an interest in land for, construction of, or payment of a fee for public infrastructure improvements is roughly proportional to the nature and extent of the impacts created by the proposed subdivision on the City's public facilities systems for water, wastewater, roadway, drainage or park facilities, and reasonably benefits the development. In making such determination, the Council shall consider the evidence submitted by the appellant, the City Engineer's report and recommendation, considering in particular the factors identified in subsection (c), and, where the property is located within the City's extraterritorial jurisdiction, any recommendations from the county.

(j) Action Following Decision. If the relief requested under the proportionality appeal is granted in whole or in part by the City Council, the dedication, construction or fee requirement initially imposed by the Planning and Zoning Commission as a condition of plat approval shall be modified accordingly, and the standards applied or the conditions attached to Commission's approval of the plat application shall be conformed to the relief granted. Thereafter, the appellant shall resubmit the plat application to the City Council within ninety (90) days of the date relief under the appeal is granted, in whole or in part, showing conformity with the City Council's decision on the appeal.

(j)[k] Expiration of Relief. If an applicant for plat approval prevails on a proportionality appeal, but fails to conform the plat to the relief granted by the City Council with the ninety-day period provided, the relief granted by the City Council on the appeal shall expire.

- (1) The Council may extend the time for filing the revised plat application for good cause shown, but in any event, the expiration date for the relief granted shall not be extended beyond one year from the date relief was granted on the appeal.
- (2) If the plat application is modified to increase the number of residential units or the intensity of non-residential uses, the responsible official may require a new study to validate the relief granted by the City Council.
- (3) If the plat application for which relief was granted is denied on other grounds, a new petition for relief shall be required on any subsequent application.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 2-9 Determination of Vested Rights**

(a) Vested Rights Petition.

- (1) Purpose. The purpose of a vested rights petition is to determine whether one or more standards of these subdivision regulations should not be applied to a plat application because state law requires that former standards be applied to the application.
- (2) Applicability. A vested rights petition may be filed with an application for a preliminary or final plat, or with an application for a development plat.
- (3) Effect. Upon granting of a vested rights petition in whole or in part, the plat application shall be decided in accordance with the standards specified in the relief order based on prior subdivision requirements or development standards.

(b) Petition Requirements.

- (1) Who May Petition. A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, with a plat application.
- (2) Form of Petition. The vested rights petition shall allege that the petitioner has a vested right for some or all of the land subject to the plat application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
  - a. A narrative description of the grounds for the petition;
  - b. A copy of each approved or pending development application which is the basis for the contention that the City may not apply current standards to the plat application which is the subject of the petition;
  - c. The date of submittal of the plat application, or of a development plan pursuant to which the plat was subsequently filed, if different from the plat filing date.
  - d. The date the project for which the application for the plat was submitted was commenced.
  - e. Identification of all standards otherwise applicable to the plat application from which relief is sought;
  - f. Identification of the standards which the petitioner contends apply to the plat application;
  - g. Identification of any current standards which petitioner agrees can be applied to the plat application at issue;
  - h. A copy of any prior vested rights determination by the City involving the same land; and



- (3) Time for Filing Petition. A vested rights petition shall be filed with a plat application for which a vested right is claimed.
- (c) Processing of Petition and Decision.
- (1) Responsible Official. The City Administrator shall process the vested rights petition. A copy of the petition shall be forwarded to the City Attorney following acceptance.
  - (2) Decision by Commission on Petition. The Commission shall render a decision on the vested rights petition in conjunction with its decision on the plat application, based upon the report and recommendation of the Manager.
  - (3) Appeal of Decision on Petition. The petitioner or any interested person, including the City Administrator, may appeal the Commission’s decision on the vested rights petition within ten (10) working days of the date of such decision to the City Council. An appeal under this subsection stays acceptance of filing of any related development applications.
  - (4) Decision by City Council. The City Council on appeal shall decide the vested rights petition. The request must be accompanied by a waiver of the time for decision on the plat application imposed under these subdivision regulations pending decision by the Council, which shall stay further proceedings on the application. The Council shall decide the petition, after considering the Manager’s report and the decision by the Planning and Zoning Commission within thirty (30) calendar days of receipt of the notice of appeal.
- (d) Action on Petition and Order.
- (1) Action on the Petition. The decision-maker on the vested rights petition may take any of the following actions:
    - a. Deny the relief requested in the petition, and direct that the plat application shall be reviewed and decided under currently applicable standards;
    - b. Grant the relief requested in the petition, and direct that the plat application shall be reviewed and decided in accordance with the standards contained in identified prior subdivision regulations; or
    - c. Grant the relief requested in part, and direct that certain identified current standards shall be applied to the plat application, while standards contained in identified prior subdivision regulations also shall be applied.
  - (2) Order on Petition. The Manager’s report and each decision on the vested rights petition shall be memorialized in an order identifying the following:
    - a. The nature of the relief granted, if any;
    - b. The approved or filed plat application(s) or other development application(s) upon which relief is premised under the petition;

- c. Current standards which shall apply to the plat application for which relief is sought;
- d. Prior standards which shall apply to the plat application for which relief is sought, including any procedural standards;
- e. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition

(e) Criteria for Approval. The decision-maker shall decide the vested rights petition based upon the following factors:

- (1) The nature and extent of prior plat or other development applications filed or approved for the land subject to the petition;
- (2) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
- (3) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
- (4) Whether any statutory exception applies to the standards in the current subdivision regulations from which the applicant seeks relief;
- (5) Whether any prior approved plat or other development applications relied upon by the petitioner have expired;

(f) Application Following Relief Order. Following the City’s final decision on the vested rights petition, the property owner shall conform the plat application for which relief is sought to such decision. If the plat application on file is consistent with the relief granted on the vested rights petition, no revisions are necessary. Where proceedings have been stayed on the plat application pending referral of the vested rights petition to the City Council, proceedings on the application shall resume after the Council’s decision on the vested rights petition.

(g) Expiration. Relief granted on a vested rights petition shall expire on occurrence of one of the following events:

- (1) The petitioner or property owner fails to submit a required revised plat application consistent with the relief granted within thirty (30) days of the final decision on the petition;
- (2) The plat application for which relief was granted on the vested rights petition is denied under the criteria made applicable through the relief granted on the petition; or
- (3) The plat application for which relief was granted on the vested rights petition expires.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 2-10      Development Plat**

(a) Purpose. The purpose of the Development Plat is to assure the adequacy of public facilities needed to serve the intended development and the overall compliance of such development with applicable requirements of these subdivision regulations where the land to be developed is not intended for division.

(b) Application Requirements. A development plat application shall include all information required for a final plat, and additionally, shall show the location of each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change therein.

(c) Procedures. The development plat application shall be processed and decided in the same manner as a final plat application.

(d) Criteria for Decision. The following criteria shall be used to determine whether the application for a development plat shall be approved, or denied:

- (1) The development plat is consistent with all zoning requirements for the property, and any approved development agreement[;]
- (2) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities to serve the development site conform to the master facilities plans for such facilities, including without limitation the water facilities, wastewater facilities, transportation, drainage and other master facilities plans;
- (3) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities are adequate to serve the development;
- (4) Easements or rights-of-way for all public water, wastewater, roadway and drainage facilities have been designated;
- (5) Fire lanes access easements or street rights-of-way have been provided for access to all fire hydrants and fire department connections; and
- (6) The plat meets any county standards to be applied under an interlocal agreement between the City and a county under Tex. Loc. Gov't Code ch. 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county.

(Ordinance 2011-03-161 adopted 6/21/11)

**Article III. Subdivision Standards**

**Section 3-1      Adequate Public Facilities Policy**

(a) Adequate Service for Areas Proposed for Development. Land proposed for development in the City and in the City's extraterritorial jurisdiction must be served adequately by essential public facilities and services, including water facilities, wastewater facilities, roadway and pedestrian facilities, drainage facilities and park facilities. Land shall not be approved for platting

or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or offsite.

- (1) New development must be supported by adequate levels of public facilities and services.
- (2) It is necessary and desirable to provide for dedication of rights-of-way and easements for capital improvements to support new development at the earliest stage of the development process.
- (3) Requirements for dedication and construction of public infrastructure improvements to serve a proposed new development should be attached as conditions of approval of any development application that contains a specific layout of the development.
- (4) There is an essential nexus between the demand on public facilities systems created by a new development and the requirement to dedicate rights-of-way and easements and to construct capital improvements to offset such impacts.
- (5) The City desires to assure both that development impacts are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that development projects contribute not more than its proportionate share of such costs.

(b) Conformance to Plans. Proposed capital improvements serving new development shall conform to and be properly related to the public facilities elements of the City's adopted Master Plan, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans.

(c) Adequacy for Specific Facilities.

- (1) Water. All lots, tracts or parcels on which development is proposed shall be connected to a public water system which has capacity to provide water for domestic use and fire protection. Additional standards and requirements are defined in Section 3-2 of these subdivision regulations.
- (2) Wastewater. All lots, tracts or parcels on which development is proposed shall be served by an approved means of wastewater collection and treatment. The City Engineer shall be responsible for determining the approved means of wastewater collection and treatment. The City may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. Additional standards and requirements are defined in Section 3-2 of these subdivision regulations.
- (3) Roads. Proposed roads serving new development shall provide a safe, convenient and functional system for vehicular, bicycle and pedestrian circulation and shall be properly related to the applicable master thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. New developments shall be supported by a

thoroughfare network having adequate capacity, and safe and efficient traffic circulation. Each development shall have adequate access to the thoroughfare network. Additional standards and requirements are defined in Section 3-3 of these subdivision regulations.

- (4) Drainage. Drainage improvements serving new development shall accommodate potential runoff from the entire upstream drainage area under developed conditions and shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, the construction of off-site drainage improvements, or drainage impact fees in order to mitigate the impacts of the proposed development. Additional standards and requirements are defined in Section 3-4 of these subdivision regulations.

(d) City Options. In order to maintain prescribed levels of public facilities and services for the health, safety and general welfare of its citizens, the City may require the dedication of easements and rights-of-way for or construction of on-site or off-site public infrastructure improvements for water, wastewater, road, or drainage to serve a proposed development, or authorize the payment of fees in lieu thereof. If adequate levels of public facilities and services cannot be provided concurrent with the schedule of development proposed, the City may deny the development until the public facilities and services can be provided, or require that the development be phased so that the delivery of facilities and services coincides with the demands for the facilities created by the development. The City may impose any conditions relating the provision of public infrastructure specified by an ordinance establishing or amending the zoning for the property.

(e) Property Owner's Responsibility.

- (1) Dedication and Construction of Improvements. The property owner shall dedicate all rights-of-way and easements for, and shall construct capital improvements within the rights-of-way or easements for those water, wastewater, road or drainage improvements needed to adequately serve a proposed development consistent with the applicable master facilities plans, whether the facilities are located on, adjacent to or outside the boundaries of the property being developed.
- (2) Facilities Impact Studies. The City may require that a property owner prepare a comprehensive traffic impact study, drainage study or other public facilities study in order to assist the City in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. The study shall identify at a minimum the adequacy of existing facilities and the nature and extent of any deficiencies, and the capital improvements needed to meet the adopted level of service assuming development at the intensity proposed in the development application. The study shall be subject to approval by the City Engineer. The City also may require, at the time of approval of a subsequent development application, an update of a public facilities study approved in connection with a priority development application.

(f) Timing of Dedication and Construction.

- (1) Initial Provision for Dedication or Construction. The City shall require an initial demonstration that a proposed development shall be adequately served by public facilities and services at the time for approval of the first development application that portrays a specific plan of development, including but not limited to a petition for establishing a planned development zoning district, or other overlay zoning district; a petition for an annexation agreement or a development agreement; or an application for a preliminary or final plat. As a condition of approval of the development application, the City may require provision for dedication of rights-of-way or easements for, and construction of, capital improvements to serve the proposed development.
- (2) Deferral of Obligation. The obligation to dedicate rights-of-way for or to construct one or more capital improvements to serve a new development may be deferred until approval of a subsequent phase of the subdivision, at the sole discretion of the City Engineer, upon written request of the property owner, or at the City's own initiative. As a condition of deferring the obligation, the City shall require that the developer enter into a subdivision improvements agreement, specifying the time for dedication of rights-of-way for or construction of capital improvements serving the development.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 3-2 Utility Connection Regulations**

(a) Adequate Water for Domestic Use and Fire Protection. It shall be the policy of the city to ensure that all future subdivisions within the city and the extraterritorial jurisdiction shall be provided with the water in sufficient volume and pressure for domestic use and fire protection, provided that where the land to be platted lies within the extraterritorial jurisdiction of the City and the City is not the water supplier, the City Council may grant a waiver to the requirement for adequate fire protection if it finds that (1) the proposed subdivision will meet the land development rules and regulations of the county in which the property is located; (2) the subdivision is to be served solely by on-site sewage disposal systems; and (3) water lines and other water facilities serving the site are designed and sized to carry future fire flows under the City's criteria and meets all City design and construction standards. The approval of a plat by the City does not constitute any representation, however, does not constitute any representation, assurance or guarantee by the City of the adequacy and availability of water for domestic use and fire protection within such plat.

(b) Water and Wastewater Utilities Connections. The City shall not provide any water or wastewater utility connection to land proposed for division until all of the following requirements have been met:

- (1) The water supply, treatment, storage and off-site distribution system to serve the subdivision meet the requirements of subsection (c).
- (2) The wastewater treatment and collection system to serve the subdivision meet the requirements of subsection (d).

- (3) The owner and/or developer of the subdivision or addition has executed a written agreement with the city, providing for the off-site extension of water and sewer mains to serve the development, in accordance with the existing water and wastewater extension regulations.
  - (4) Off-site mains have been extended to the subdivision pursuant to the agreement and this section, and water and wastewater mains have been installed in accordance with the City's specification in the block facing the street on which the property is situated and accepted by the city. "As Built" plans will be required at the end of construction showing the actual location of all improvements.
- (c) Adequate Water System.
- (1) No plat application shall be approved unless the subdivider demonstrates that there will be a sufficient volume and pressure for domestic use and fire protection to serve the subdivision concurrent with development. The water system serving the subdivision shall be deemed adequate under the following circumstances:
    - a. To compute demand created from development, a maximum daily flow of 600 gpcd (gallons per capita per day) and a maximum hourly flow of 1000 gpcd shall be used for residential uses. For commercial and industrial uses, a maximum daily flow of 3000 gpad (gallons per acre per day) and a maximum hourly flow of 6000 gpad shall be used.
    - b. Minimum system pressure shall be 35 psi.
    - c. Fire flow required shall be determined in accordance with the adopted City Fire Code. The minimum allowable pressures during a fire flow condition are 20 pounds per square inch ("psi") residual at the fire hydrant and 35 psi elsewhere in the water distribution system.
    - d. The minimum ground storage requirements are 100 gallons per connection and for elevated storage 100 gallons per connection or as determined based on Total Elevated Required Storage Volume = (maximum hour demand minus maximum day demand) times drawdown time (6 hours) per connection and Total Ground Required Storage Volume = maximum day demand times drawdown time (6 hours) per connection.
    - e. Where the City is not the supplier, the subdivider must provide assurance of sufficient capacity in accordance with the standards in this subsection from the entity holding the Certificate of Convenience and Necessity for the land to be subdivided. Such entity must have a wholesale water supply contract that allows purchase of water at sufficient volumes to serve the development considering all other commitments in accordance with City standards.
  - (2) Where City distribution mains are to be used for supplying water, there is an existing distribution main with adequate capacity to serve the development within one half mile of the boundary of the proposed subdivision, and the subdivider agrees to extend an approach main from such main to the subdivision of a size sufficient to serve the development or of a size shown in the City's master water plan, whichever is larger, at his expense in accordance with standard City participation policies. This

requirement does not apply where the approach main is part of a funded capital improvement project that the City has initiated consistent with its adopted capital improvements plan for water facilities. Where the City is not the water supplier, the subdivider shall provide assurances that water mains shall be extended to serve the subdivision prior to the time of final plat approval for the second phase of a preliminary plat.

- (3) The subdivider shall demonstrate that the water system serving the development, other than approach mains to connect the development to the water distribution system, will be adequate to serve the development at the time of preliminary plat approval. The subdivider shall demonstrate that each phase of the development shall be served by an adequate water system under this standard. The approach main shall be extended to serve the entire development subject to a preliminary plat prior to the time of final plat approval for the second phase of the preliminary plat, unless the extension is part of a funded capital improvement project that the City has initiated consistent with its adopted capital improvements plan for water facilities.

(d) Adequate Wastewater System.

- (1) No plat application shall be approved unless the subdivider demonstrates that there will be an adequate wastewater system to serve the subdivision concurrent with development. The wastewater system serving the development shall be deemed adequate under the following circumstances:
  - a. To compute demand created from development, sewage flows shall be based on an average daily unit flow of 278 gallons per day per unit (gpd/unit) for treatment plant flows.
  - b. For the collection system, the 2 hour peak wet weather flow using a peaking factor determined by using Curve A in the American Society of Civil Engineers (“ASCE”) handbook shall be used.
  - c. Adequacy of treatment facilities cannot be demonstrated by reliance upon temporary package treatment plants.
  - d. Where the City’s wastewater system is not to be used, the subdivider must provide assurance that the entity collecting the sewage holds a Certificate of Convenience and Necessity for the land to be subdivided, that collection systems are adequate to accommodate sewage flows from the development and that the treatment system to be used has adequate capacity in accordance with the standards in this subsection.
- (2) Where City collection mains are to be used for collecting sewage, there is an existing collection main with adequate capacity to serve the development within one half mile of the boundary of the proposed subdivision, and the subdivider agrees to extend such main to the subdivision of a size sufficient to serve the development or of a size shown in the City’s master wastewater plan, whichever is larger, including construction of all necessary lift stations and force mains, at his expense in accordance with standard City participation policies. This requirement does not apply where the approach main is part of a funded capital improvement project that the City has initiated consistent with its adopted capital improvements plan for wastewater



facilities. Where the City is not collecting the sewage, the subdivider shall provide assurances that wastewater mains shall be extended to serve the subdivision prior to the time of final plat approval for the second phase of a preliminary plat.

- (3) The subdivider shall demonstrate that the wastewater system serving the development, other than approach mains to connect the development to the sanitary sewer collection system, will be adequate at the time of preliminary plat approval. The subdivider shall demonstrate that each phase of the development shall be served by an adequate wastewater system under this standard. The approach main shall be extended to serve the entire development subject to a preliminary plat prior to the time of final plat approval for the second phase of the preliminary plat, unless the extension is part of a funded capital improvement project that the City has initiated consistent with its adopted capital improvements plan for wastewater facilities.

(e) Adequacy Where Utility Connection Not Required.

- (1) Where the source of the water supply for the proposed subdivision is groundwater under the land to be subdivided, the subdivider shall submit a certification prepared by an engineer or geoscientist licensed to practice in Texas that the groundwater supply is adequate to serve the subdivision in accordance with the standards in subsection (c).
- (2) Where the installation of wastewater facilities is not proposed or required, the size of the subdivided lots shall meet the minimum lot size standards of the zoning district in which the land is located, and the City's minimum lot size requirements for individual disposal facilities for land inside city limits, and the minimum lot size requirements for individual disposal facilities for the County in which the land is located for land in the City's extraterritorial jurisdiction. The lot shall be of sufficient size for individual disposal facilities, including the necessary lateral lines, and subdivider shall install individual disposal devices for each lot at the same time improvements are erected thereon. Any such individual sewage disposal system shall be constructed in accordance with the state health department specifications and subject to the approval of the City Engineer.

(f) Oversized Water and Wastewater Infrastructure. The City may participate in the cost of oversized water and wastewater mains, lift stations and other facilities necessary to serve a proposed subdivision. "Oversized mains" are mains with pipe sizes larger than eight (8) inches in diameter, which are required by the City for future expansion of the water and wastewater systems in conformance with the City's master water and wastewater plans and that are not required to provide adequate service to the proposed subdivision. "Oversized lift stations and other facilities" are facilities with capacity in excess of that required to provide adequate service to the proposed subdivision, in conformance with the City's master water and wastewater plans. Prior to beginning construction of any facility for which the City is to participate in the cost thereof, the developer and the City shall enter into a subdivision improvement agreement, in accordance with section 2-5.

(g) Pro Rata Fees. A subdivider or property owner that agrees to construct a water or wastewater main or an associated facility that on acceptance will become part of the City's water and wastewater system and which supplies capacity to other existing or new developments, may

apply to the City to establish pro rata fees to be paid by other users of the facilities and to reimburse the subdivider or property owner a proportional amount of the costs of constructing such improvements.

- (1) Study Required. The amount of the cost reimbursement from pro rate fees for an improvement, if any, shall be based on engineering cost estimates agreed upon in writing by the City Engineer and the applicant, and verified in a study provided by the applicant. The study shall aggregate the costs of associated improvements where feasible. The City may establish guidelines for eligible costs to administer the policy in this section. The study shall contain the following minimum elements:
  - a. identification of the area and all properties to be served by the water or wastewater lines or associated facilities to be installed;
  - b. identification of the costs of the facilities to be installed;
  - c. apportionment of the costs of the facilities to be installed among lots, tracts or parcels to be served by the improvements, based upon capacity to be utilized by such properties, using accepted engineering standards and practices;
  - d. calculation of the maximum amount of the costs which are to be reimbursed to the subdivider or property owner, net of costs attributable to the subdivider's or property owner's utilization of capacity of the lines or associated facilities; and
  - e. calculation of a pro rata fee to be charged per unit of land that is to be connected to the water or wastewater lines or associated facilities.
  
- (2) Approval Process.
  - a. The City Engineer shall review each request for cost reimbursement from pro rata fees.
  - b. The City Engineer may approve the study for cost reimbursement from pro rata fees, with or without modifications, only if he determines that:
    - (i) The property to be served is in the water CCN area of the City, but has not been included on the impact fee capital improvements plan for that category of capital improvement;
    - (ii) The size of each proposed line or facility complies with the generally accepted engineer practices and other planning criteria of the City and final design and routing will comply with the TCSS Manual;
    - (iii) The study proposing pro rata fees fairly apportions the extension costs among prospective users of the facilities to be installed; and
    - (iv) The proposed line or facility is a reasonable extension or addition to the water and wastewater utility system.
  - c. Requests which are not approved by the City Engineer, may be presented to the City Council for further consideration[.]

- d. Upon approval of the request for reimbursement from pro rata fees, any development on or user of property identified in the approved fee study thereafter that connects to or utilizes the capacity of the water or wastewater line or associated facility for which a pro rata fee has been established shall pay the applicable fee. Pro rata fees shall be collected by the City before construction commences on any water or wastewater improvements to serve such land or before connection to the facility, whichever first occurs.

(3) Payment of Pro Rata Fees.

- a. For a period of ten (10) years following the City’s acceptance of the water line, wastewater line, or associated facility, the subdivider or property owner shall be entitled to reimbursement from the proceeds of the pro rata fees established pursuant to this section, up to the maximum amount of the reimbursement established in the approved pro rata fee study. The City may deduct two (2) percent of the amount of pro rata fees collected from the amount of the fees reimbursed to the subdivider or property owner as an administration fee.
- b. The City may establish one or more pro rata fee accounts for purposes of administering the policies of this section. The City shall deposit all pro rata fees collected pursuant to this section into such account(s). Expenditures from such accounts shall be earmarked solely for reimbursement of subdividers or property owners for the installation of water lines or wastewater lines or associated facilities for which pro rata fees have been established pursuant to this section.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 3-3 Road Adequacy Regulations**

(a) Purpose and General Policy.

- (1) New development within the urbanizing area must be supported by an adequate network of thoroughfares.
- (2) Thoroughfares are an essential component of the City’s street network and are necessary to accommodate the continuing growth and development of the City.
- (3) It is necessary and desirable to obtain rights-of-way for off-site, abutting and internal thoroughfares to support new development at the time of platting or development of the land.
- (4) There must be rough proportionality between the traffic impacts created by a new development and requirements placed on the property owner to dedicate and improve offsite, abutting and internal thoroughfare rights-of-way to City standards.
- (5) The City desires to assure both that development impacts are mitigated through contributions of thoroughfare rights-of-way and improvements and that a development project contribute not more than its fair share of thoroughfare costs.

- (6) It is the City's intent to institute a procedure to assure that mandatory dedications of thoroughfare rights-of-way and thoroughfare construction requirements are proportional to the traffic demands created by a new development.
  - (7) It is the intent of the City that a road adequacy determination be made prior to approval of subdivision applications.
- (b) Minimum Road Standards.
- (1) Applicability. All subdivision applications shall provide for adequate roads to support proposed development through compliance with the following minimum standards governing dedication and improvement of internal and adjacent thoroughfares. For purposes of this section Adjacent thoroughfares shall include thoroughfares abutting the proposed subdivision, whether located within the boundaries of the subdivision or within public rights-of-way.
  - (2) Standards and Specifications. The property owner shall dedicate and improve all rights-of-way for internal and adjacent thoroughfares required by these regulations in accordance with the classification of streets contained within the City's adopted thoroughfare plan.
  - (3) Dedication and Improvement of Internal and Adjacent Thoroughfares. Dedication and improvement of internal and adjacent thoroughfares. For adjacent thoroughfares, the property owner shall dedicate and improve one-half of the right-of-way necessary to meet the specifications in the New Fairview Comprehensive Plan and Master Thoroughfare Plan. The City may require additional land and improvements for rights-of-way for adjacent thoroughfares where necessary to achieve adequacy of the road network and where such additional land and improvements are proportional to the traffic impacts generated by the proposed subdivision, depending on factors such as the impact of the development on the thoroughfare, the timing of development in relation to need for the thoroughfare, and the likelihood that adjoining property will develop in a timely manner. In the case of adjacent frontage or service roads for state and federally designated highways, the property owner shall dedicate sufficient right-of-way and make authorized improvements in order to provide an adequate road network to serve the subdivision.
  - (4) Substandard Street Improvements. Where an existing thoroughfare that does not meet the City's right-of-way or design standards abuts a proposed new development, the City may require the property owner to dedicate the right-of-way for a standard thoroughfare width, and to improve the street according to the dimensions and specifications in the thoroughfare plan, depending on factors such as the impact of the development on the thoroughfare, the timing of development in relation to need for the thoroughfare, and the likelihood that adjoining property will develop in a timely manner.
  - (5) Capital Improvements Plan for Roads. A road improvement may be considered adequate for a subdivision application if the required improvement is included, funded, and approved in the City's, County's or State's two-year capital improvements plan for roads, or if the improvement is included, funded, and approved in the City's, County's or State's three to five year capital improvements plan for roads, provided that the applicant agrees to phase development to conform to

such scheduled improvement. This section shall not be construed to prevent the City from requiring dedication of rights-of-way for such roads, or from assigning trips to such roads in a traffic impact study in order to determine a development project's proportionate costs of improvements.

- (6) Participation in costs of improvements. The City may participate in the costs of improvements required by this section in order to achieve proportionality between the traffic impacts created by the proposed development and the obligation to provide adequate roadways. In such cases, the property owner shall be responsible for the entire initial costs of road improvements, including design costs. Reimbursement of the City's agreed share of the costs shall be made as funds become available. The construction of improvements and the provisions for participation in costs by the City shall be included in a subdivision improvement agreement.

(c) Traffic Impact Analysis.

- (1) Applicability. This section applies to any non-residential subdivision application for which proposed development generates traffic in excess of 1000 average daily trips, based upon the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. In the event that land uses for the development are not specified at the time of subdivision application, the daily trip generation rate shall be computed based upon the maximum land use intensity allowed under the comprehensive plan for the land to be subdivided.
- (2) TIA Required. Every subdivision application for a proposed development that generates traffic in excess of 1000 average daily trips, shall be accompanied by a traffic impact analysis based on the ITE Manual, prepared in accordance with standard transportation engineering practices for purposes of determining the adequacy of the road network to serve the proposed development, and whether off-site road dedication and improvements should be made to mitigate the effects of the development proposed in the subdivision application.
  - a. An initial traffic impact analysis shall be submitted with the preliminary plat or first subdivision application for the development. An updated traffic impact analysis shall be submitted with each final plat submitted for approval and shall be generally consistent with the initial traffic impact analysis. The initial traffic impact analysis shall be updated whenever the preliminary plat is modified to authorize more intensive development.
  - b. The traffic impact analysis shall determine (1) trips to be generated by the proposed development; (2) assignment of such trips to the road network analyzed; (3) the capacity of affected thoroughfares before and after the proposed development; (4) specific recommendations for thoroughfare improvements and traffic control modifications needed to mitigate the traffic from the proposed development and (5) the development project's proportionate share of the costs of such improvements and modifications.
- (3) City evaluation and action. The City shall evaluate the adequacy of the traffic impact analysis prepared by the applicant. Based upon such evaluation, the City shall determine (1) whether the application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected thoroughfare and

- (2) the extent of the applicant's obligations to make such dedications or improvements. The City shall condition the approval of the subdivision application on one or more of the following performances by the applicant:
- a. delay or phasing of development until thoroughfares with adequate capacity or intersection improvements is constructed;
  - b. a reduction in the density or intensity of the proposed development sufficient to assure that the road network has adequate capacity to accommodate the additional traffic to be generated by the development;
  - c. the dedication or construction of thoroughfares or traffic control improvements needed mitigate the traffic impacts generated by the proposed development.
- (4) Deferral of Obligation. Upon request of the applicant or property owner, the obligation to dedicate or improve thoroughfare rights-of-way or to make intersection improvements imposed on a subdivision application may be deferred to a later stage of the development process. As a condition of deferring the obligation to dedicate rights-of-way for or to improve thoroughfares, which deferral shall be in the sole discretion of the City, the City shall require the developer to execute a subdivision improvement agreement specifying the amount and timing of the rights-of-way dedication or improvements to thoroughfares.
- (5) Cash contributions. In lieu of the obligation to dedicate or improve thoroughfares or make traffic control improvements to achieve road adequacy, the applicant may propose to make equivalent cash contributions based upon the development project's proportionate share of the costs of improvements, which the City in its sole discretion may accept in satisfaction of road adequacy standards in this section. Any funds accepted by the City shall be earmarked for construction of the improvements for which the contribution was made.
- (6) Options. Whenever the proposed development's share of the costs of a thoroughfare or traffic control improvement needed to mitigate traffic generated by the development is less than 100%, the City in its sole discretion may do the following:
- a. participate in the excess costs for one or more improvements; or
  - b. aggregate the costs of improving multiple thoroughfares or intersections identified in the traffic impact analysis, and require improvements to only some of the thoroughfares or intersections affected by the development.

(Ordinance 2011-03-161 adopted 6/21/11)

### **Section 3-4 Drainage Adequacy Regulations**

- (a) System Improvements. Storm drainage facilities shall include all elements of a drainage system consisting of streets, alleys, storm drains, channels, culverts, bridges, swales and any other facility through which or over which storm water flows, all of which the City must have a right in, either in the form of a dedicated right-of-way, floodway or drainage easements. The developer shall be responsible for the necessary facilities to provide drainage patterns and drainage controls such that properties within the drainage area, whether upstream or downstream of the

development, are not adversely affected by storm drainage from facilities on the development. Drainage facilities shall be designed and constructed at such locations and of such size and dimensions to adequately serve the development and the contributing drainage area above the development. The developer shall provide all the necessary easements and right-of-ways required for drainage structures including storm drains and open channels, lined or unlined.

- (1) Easement widths for storm drain pipelines shall not be less than fifteen (15) feet, and easement widths for open channels shall be at least fifteen (15) feet wider than the top width of the channel. In all cases, easements shall be of an adequate size to allow proper maintenance.
- (2) Storm drainage released from the site will be discharged to a natural water course or storm sewer system of an adequate size to convey the 100-year storm runoff expected after development.
- (3) An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of storm water and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions or inadvertent storm water retention, such as standing or pooling water, as established by the City Engineer, will not be considered for development until adequate drainage has been provided.

(b) Creeks. All creeks and drainage areas shall be preserved and protected in their natural condition wherever possible, unless significant storm drainage improvements are required by the City in these areas. All development adjacent to creeks and drainage areas shall be in accordance with the City's TCSS Manual, and with any other City policies or ordinances related to public access or recreational use of waterways.

(c) Oversizing. Off-site improvements may be required to carry the additional flows caused by the proposed development. The developer shall be fully responsible for the construction of off-site drainage improvements necessary to serve the subdivision or development and the surrounding area, unless other arrangements are approved by the City Council and subject to cost participation by the City.

(Ordinance 2011-03-161 adopted 6/21/11)

### **Section 3-5 Water System Design Standards**

(a) General Requirements. The design and construction of the water distribution system to serve the development shall be in accordance with good engineering principles, with the standards in this section, the Standard Specifications for Construction and the TCSS Manual and with the requirements of the Texas Commission on Environmental Quality (TCEQ). All off-site water mains shall be sized and located to conform to projected demands in accordance with the current Water Master Plan and the computer model with regard to the impact of each development on the existing and proposed water distribution system. No construction shall commence prior to the approval of the plans and specifications by the City.

(b) Size of Mains. All facilities shall be of sufficient size to provide adequate capacity for ultimate development. The pipelines shall be sized to meet the maximum instant domestic requirements plus an appropriate allowance for fire protection water. The design criteria for water demand shall be submitted to the City with the plans and specifications. The City reserves the

right to require larger pipelines than required for the proposed development in order to provide capacities for areas outside the development. The developer will be responsible for construction of water lines adjacent to his property in accordance with the latest Water Master Plan or as required by the City Engineer.

- (1) The minimum pipeline size to serve residential areas shall be six inches (6") in diameter, and the minimum pipeline size serving commercial, business, industrial, etc. shall be eight inches (8").
- (2) In general, all lines shall be looped with no dead-ends. Dead-end lines will be allowed only upon approval by the City and shall be furnished with a flush valve arrangement.

(c) Connections to Existing Distribution System. Connections to the City's existing system will be allowed only at locations where there is sufficient quantity and pressures available to meet the projected requirements of the development. In general, the connections to the existing distribution system shall be made in such a manner to keep "shut-downs" to a minimum. Preference should be given to a tapping valve connection.

(d) Oversizing. In a proposed development where City water is not adjacent to the property but is accessible, the developer shall provide, at his expense, an off-site water main of sufficient size to serve his development or as shown on the City's Water Master Plan, whichever is larger. The City may participate in the costs of oversizing or establish pro-rata fees for the oversize of the required line. The City participation must be approved by the City Council.

(Ordinance 2011-03-161 adopted 6/21/11)

### **Section 3-6 Wastewater System Design Standards**

(a) General Requirements. The design and construction of the wastewater collection system to serve the development shall be in accordance with good engineering principles, standards in this section, the Standard Specifications for Construction, the TCSS Manual and the requirements of the TCEQ. No construction shall commence prior to the approval of the plans and specifications by the City of New Fairview. All wastewater mains and lift stations shall be sized and located to conform to the projected flows in accordance with the latest sanitary Wastewater Master Plan.

(b) Size of Mains. All facilities shall be of sufficient size to provide adequate capacity for the ultimate development. The wastewater lines shall be sized to meet the peak-day dry weather flow plus an appropriate allowance for infiltration of storm water. The minimum wastewater main size for all developments shall be six inches (6") in diameter. The design criteria and calculation shall be submitted to the City with the plans and specifications. The City may require oversizing of a main in order to provide capacities for areas outside of the development.

(c) Connections to Existing Wastewater Collection System. In a proposed development where City wastewater facilities are not adjacent to the property but are accessible, the developer shall provide, at his expense, an off-site wastewater interceptor of sufficient size to serve his development and the contributing service area (using fully developed flows).

(d) Oversizing of Lift Stations and Force Mains. All lift station design plans and specifications shall be submitted to the City Engineer and TCEQ for review and approval prior to construction. Developments which increase the flow to existing lift stations will be subject to a pro-rata fee if



sufficient capacity is available in the existing lift station or will be required to increase the capacity of the existing facility if sufficient capacity is not available. Lift stations and force mains shall be designed and built for the upstream drainage area assuming fully developed conditions. This will include off-site areas if applicable. Developers are responsible for the construction of regional lift stations and force mains, per the Wastewater Master Plan. Developers may request establishment of pro-rata fees for oversizing of lift stations and force mains, in accordance with the provisions of section 3-2(g).

(Ordinance 2011-03-161 adopted 6/21/11)

### **Section 3-7 Street Design Standards**

(a) General Requirements. The arrangement, alignment and layout of all streets shall conform to the design principles and goals of the City of New Fairview Strategic Master Plan and Thoroughfare Plan, and shall be considered in their relation to existing and planned streets or driveways (whether within the City of New Fairview, within its ETJ area, or within adjacent municipal or County areas), to topographical conditions, to public safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The following shall be considered when approving designs and layouts of local streets in the interior of subdivisions:

- (1) Collector and local streets within residential subdivisions, including the placement of cul-de-sacs, shall be designed in agreement with the “Neighborhood Concept” as presented in the City of New Fairview Strategic Master Plan, and shall contain, where feasible, the curvilinear characteristics defined in Chapter 2 Growth Strategies and Design Approaches. Consequently, cul-de-sacs shall be considered as being an appropriate application within the curvilinear design pattern of subdivisions.
- (2) Collector streets shall be required to provide connections to adjacent undeveloped property to facilitate neighborhood circulation.
- (3) Grid street patterns may be permitted for New Urbanism or Neotraditional Development as defined in said Chapter 2 Growth Strategies and Design Approaches.
- (4) Streets shall be designed to conform to existing or proposed driveway openings (including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared).
- (5) To the greatest extent possible, the number of lots fronting along residential collector streets shall be minimized in order to ensure adequate traffic safety and efficiency. No more than twenty percent (20%) of the total centerline length of a collector street may have residential lots fronting onto the collector on each side of the street.
- (6) Reserve strips controlling access to streets shall be prohibited.
- (7) A cul-de-sac street shall not be longer than six hundred feet (600'), and at the closed end shall have a turnaround bulb with an outside pavement diameter of at least eighty feet (80') and a right-of-way diameter of at least one hundred feet (100'). The length of a cul-de-sac shall be measured from the centerline of the intersecting street to the centerline of the cul-de-sac bulb.

- (8) A street intersection with a major thoroughfare shall be at a ninety-degree (90°) angle and shall be tangent to the intersecting street for at least one hundred feet (100'). All other street intersections shall be laid out so as to intersect as nearly as possible at a ninety degree (90°) angle or radial to the centerline of the intersecting street for the full right-of-way of the intersecting street, and tangent to the intersecting street for at least fifty feet (50'). No street shall intersect at an angle that is less than eighty-five degrees (85°).
  - (9) The applicant may receive relief from the design criteria of the curvilinear pattern in the event that it is determined not to be feasible to develop in accordance with these design principles. However, facts and data must be submitted supporting such relief and must be approved by the City Council.
- (b) Access. All subdivisions must have at least two (2) points of vehicular access, and must be connected via improved roadways to the City's improved thoroughfare and street system by one or more approach roads of such dimensions and improved to such standards as are hereinafter set forth. Requirements for dedication of right-of-way and improvement of approach roads may be increased depending upon the size or density of the proposed development, or if such need is demonstrated by traffic impact analysis.
- (1) "Two (2) points of vehicular access" shall be construed to mean that the subdivision has at least two (2) improved roads accessing the subdivision from the City's improved thoroughfare system, and the subdivision has at least two (2) road entrances. The City Council may, at its discretion and upon a finding that such will not compromise public safety or impede emergency access, accept a single median-divided entrance from the City's improved thoroughfare system provided that the median extends into the subdivision for an unbroken length of at least two hundred feet (200') to an intersecting internal street which provides at least two (2) routes to the interior of the subdivision. For example, the entrance street is not a dead-end or cul-de-sac, and it does not create a "bottleneck" allowing only one emergency route into the interior of the subdivision.
  - (2) The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum frontage on a dedicated public street as required by applicable zoning or thirty-five feet (35'), whichever is greater, unless other provisions have been authorized through planned development approval.
- (c) Slope Easements. The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall be no steeper than three feet (3') horizontal run to one foot (1') vertical height, or a three-to-one (3:1) slope.
- (d) Street Construction. All streets and thoroughfares shall be constructed and paved to City standards and within rights-of-way as required by the Thoroughfare Plan and this Ordinance, and in accordance with the TCSS Manual and other City standards as may be from time to time amended or adopted.

(e) Intersection Improvements and Traffic Control Devices. Intersection improvements and traffic control devices shall be installed as warranted in accordance with the traffic impact analysis required by section 3-3, or as may be required by the City for traffic safety and efficiency. Construction and design standards shall be in accordance with City standards and the TCSS Manual.

(f) Median Openings, Width, Location and Spacing. Arterial thoroughfares in New Fairview shall have raised medians. Arterials having two-way left turn lanes may be utilized only in special circumstances with the approval of a waiver by the City Council. Median openings at intersections shall be from right-of-way to right-of-way of the intersecting street, unless otherwise approved by the City Engineer. The width of mid-block median openings shall not be less than 60 feet, or greater than 70 feet.

(g) Alleys. Alleys shall be provided in all residential areas and shall be paved with concrete. No alley may be over 1,000 feet long. Alleys may be required in commercial and industrial districts. The City may waive this requirement where other definite and assured provisions are made for service access such as off-street loading, unloading and parking consistent with and adequate for the uses proposed. The minimum right-of-way width of an alley shall be twenty (15) feet. Dead-end alleys shall not be permitted. The City may waive this requirement where such dead-end alleys are unavoidable and where adequate turnaround facilities have been provided. Adequate provisions shall be made at all intersections in order that equipment, such as garbage collection vehicles and maintenance vehicles, can maneuver the corners. The interior edge of the pavement, at the corners, shall have a minimum radius of thirty (30) feet. The exterior edge of the pavement, at the corners, shall have a minimum radius of twenty (20) feet. The right-of-way limits shall be expanded, if necessary, beyond the minimum requirement in order to include all of the paved section and utilities within the, right-of-way of the alley. Alley turnouts shall be paved to the property line and shall be fifteen (15) feet wide at that point. All alleys shall have a minimum of twelve (10) feet of paved concrete roadway.

(h) Driveways.

(1) Residential. Residential driveways to serve single car garages shall not be less than twelve (12) feet or for two car garages, carports and/or storage areas shall be not less than eighteen (18) feet or more than twenty-four (24) feet in width at the property line. The width of the driveway will be larger at the garage for a three car (width to be twenty-eight (28) feet) or larger garage (case by case basis). Residential driveways shall be separated from one another by a distance of at least ten (10) feet.

(2) Multi-Family and Non-Residential. Driveways providing access to multi-family or non-residential uses shall generally have widths between twenty four (24) and forty five (45) feet when measured at their narrowest point near, or at, the property line. The minimum radius for these uses shall be twenty-five (25) feet.

(i) Street Lights. All developments shall be provided with streetlights. In, general, lights should be located at street intersections and at intervals no greater than four hundred (400) feet apart. Streetlights should be the equivalent of 175-watt mercury vapor fixtures on minor residential streets. All collector and arterial, or commercial streets shall have sodium vapor fixtures with a minimum wattage of 250 or 400 watts as directed by the City.

(Ordinance 2011-03-161 adopted 6/21/11)

### Section 3-8 Drainage System Design Standards

(a) Stormwater Management Plan. All new subdivisions shall provide a complete stormwater management plan as part of the final engineering drawings. The plan shall include, but not be limited to, the following: a complete review of all on-site, upstream and downstream drainage within the impacted watershed; determination of all on-site and downstream drainage facility improvements expected from the increased runoff from the proposed development and future upstream and downstream developments; and calculations necessary to determine compliance with the design standards in this section and the TCSS Manual. The plan shall assume intensities of use allowed under current zoning or land uses identified in the future land use element of the Comprehensive Plan (whichever generates the greatest storm water runoff), with maximum development considered throughout the watershed. The storm drainage plan shall show all necessary improvements with flow data provided at each point of interception of water.

- (1) As part of the stormwater management plan, the developer shall show a lot grading plan to direct all water to proper intersection points avoiding cross flow of water from lot to lot.
- (2) All upstream discharge shall be intercepted and carried through the proper intersection points avoiding cross flow of water from lot to lot. All upstream discharge shall be intercepted and carried through the proposed development in compliance with the standards in this section and the TCSS Manual.

(b) Compliance Required. The developer shall provide plans and specifications and design calculations for all drainage structures. The design, size, type and location of all storm drainage facilities shall be subject to the approval of the City Engineer. The requirements set forth in the design standards and in the TCSS Manual are considered minimum requirements. The developer and his engineer shall bear the total responsibility for the adequacy of design. The design flows for the drainage system shall be calculated by the Rational Method in accordance with the requirements set forth in this document. Curbs, inlets, manholes, etc. shall be designed and constructed in accordance with the TCSS Manual. Materials and construction procedures shall conform to the requirements of the Standard Specifications for Construction.

(c) Lot Drainage and Grading Plan. All lots shall be graded at the time of development in accordance with the lot drainage and grading plan. All grading shall not exceed a slope of 3 to 1 unless approved by the City Engineer. In applicable situations, the City Engineer may require 4 to 1 slope or greater. The builder at the time of permit application shall furnish a grading plan in compliance with the appropriate chapter of the building code adopted by the City, the grading plan for the development and the storm drainage plan approved for that particular development. If the re-grading of a lot is necessary, the builder shall be required to furnish a new drainage plan indicating the diversion and rerouting of the affected storm water. When the re-grading of a lot prevents the drainage from flowing to the proper structures as designated in the drainage plan, then the builder will furnish a registered engineer's review for adequacy of existing structures to which the water is diverted. If improvements are necessary to provide for adequate drainage due to re-grading of a lot, then the improvement must be made at the builder's expense before a grading permit or other permits for construction will be issued by the City. The City Engineer will review the information submitted for compliance with the approved grading and drainage management plan.

(d) Erosion Controls. Approved erosion controls shall be provided as part of the development construction on any or all lots within the development to protect the drainage, lot development and adjacent property. All open channels that are not concrete lined shall be designed to prevent erosion. Temporary erosion control methods shall be used to abate sediment runoff from construction sites. The application of control devices can yield significant water quality and drainage benefits at a minimal cost to the developer. The erosion control measures can be grouped as barriers, filter devices, or routing devices.

(e) Easements. Easement widths for storm drain pipelines shall not be less than fifteen (15) feet, and easement widths for open channels shall be at least fifteen (15) feet wider than the top width of the channel. In all cases, easements shall be of an adequate size to allow proper maintenance.

(Ordinance 2011-03-161 adopted 6/21/11)

### **Section 3-9 Sidewalks**

Sidewalks and Pedestrian Pathways. Sidewalks adjacent to local roadways and pedestrian pathways within parks and open spaces shall be constructed within the interior of all subdivisions. The following policy shall govern the construction of all sidewalk and pedestrian pathway improvements within the city:

- (a) A pedestrian “connectivity” plan shall be provided on the preliminary plat. The lot layout of the final plat shall reflect this plan.
- (b) The connectivity plan shall designate a pedestrian route through the subdivision that permits linkage to the designated park linkage system. Special street treatment utilizing pavers stamped concrete and painting shall identify designated crosswalks located on the pedestrian connectivity route. Painting shall not be the primary feature of the designated crosswalks.
- (c) Green space and open space entrances and corridors used for the pedestrian connectivity route shall be at a minimum no less than thirty (30) feet in width.

(Ordinance 2011-03-161 adopted 6/21/11)

### **Section 3-10 Easements**

(a) The minimum width for City utility easements shall be fifteen feet (15') or as otherwise required by the City Engineer. The minimum width for City drainage easements shall be as required by the City Engineer. The width of easements for other utility providers, such as for gas, electric, telephone or cable television, shall be as required by that particular entity. It shall be the applicant's responsibility to determine appropriate easement widths required by other utility companies. Wherever possible, easements shall be centered or along front or side lot lines rather than across the interior or rear of lots, particularly where no alleys will be provided behind the lots.

(b) Where a subdivision is traversed by a watercourse, drainageway or channel, there shall be provided a storm drainage easement or right-of-way conforming substantially with such course and of such additional width as may be designated by the City Engineer, subject to determination according to proper engineering considerations. The required width shall conform to the

requirements set forth by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers, and/or the City. Parallel streets or parkways may be required adjacent to certain portions of creek or drainageways to provide maintenance access and/or public access and visibility into public open space or recreation areas. The number of lots that back or side onto creeks, drainageways, public parks and open spaces, and public school sites shall be limited as required to provide public access, visibility, safety and security within these areas are maximized. Other utilities may be permitted within a drainage or floodway easement only if approved by the City Engineer.

(c) The area of a lot shall be computed inclusive of all easements. However, there shall be a minimum buildable area, exclusive of required easements, buffer zones and setbacks for each lot. The minimum buildable area shall be an area one-half of the required minimum lot size, where applicable.

(d) Where alleys are not provided in a residential subdivision, a minimum ten-foot (10') utility easement shall be provided along the front of all lots, adjacent to and flush with the street right-of-way line for the potential placement of utility facilities.

(e) All necessary on-site easements shall be established on the subdivision plat and not by separate instrument, and they shall be labeled for the specific purpose, and to the specific entity if other than the City, for which they are being provided.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 3-11 Lots**

(a) Lot size and dimensions shall conform to the minimum requirements of the established zoning district, if located within the City's corporate limits, or where applicable, to the standards in a valid and approved development agreement within the City's extraterritorial jurisdiction.

(b) Each lot on a subdivision plat shall front onto a dedicated, improved public street. In all cases, single-family residential lots shall have a minimum of thirty-five feet (35') of frontage, and non-residential lots shall have a minimum of fifty feet (50') of frontage, along a dedicated, improved street.

(c) Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements, and shall provide a building pad without encroachment into front, side or rear yard setbacks or into any type of easement. The rear width shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection when alleys are present (minimum 20-foot alley frontage). Triangular, greatly elongated or tapered, "flag" or "panhandle" lots shall be prohibited.

(d) Side lot lines shall be at ninety-degree (90°) angles or radial to street right-of-way lines to the greatest extent possible.

(e) Double frontage lots shall be prohibited, except where they may be essential to provide separation of residential development from traffic arterials, or to overcome a specific disadvantage or hardship imposed by topography or other factors. Where lots have double

frontage, building setback lines shall be established for each street side. A residential lot shall not back onto any residential street or collector street within a residential area or neighborhood, and shall not have more than one-half of its perimeters along streets.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 3-12 Blocks**

- (a) The length, width and shapes of blocks shall be determined with due regard to:
  - (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated;
  - (2) Zoning requirements as to lot sizes, setbacks and dimensions (if within the City's corporate limits) or, where applicable, standards specified in a valid and approved development agreement; and
  - (3) Needs for convenient access, circulation, control and safety of street traffic and for pedestrians or bicyclists traveling to a public park or school site or other facility within or close to the neighborhood.

(b) Intersecting streets, which determine the lengths and widths of blocks, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices. Where no existing subdivision or topographical constraints control, the blocks shall not be more than twelve hundred feet (1200') in length; however, in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased (through approval of a waiver by the City Council) to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety. Block arrangements must provide access to all lots.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 3-13 Perimeter Landscaping and Decorative Fences and Walls**

- (a) Perimeter Landscaping. Trees and shrubs shall be planted in the public rights-of-way of streets Identified as being an arterial street and all collector streets within the subdivision and along its perimeter as follows:
  - (1) Trees shall be located on an average of twenty-five feet (25') on center for each forty foot (40') of street frontage, and shall have a minimum caliper of three inches when measured twelve inches (12") above natural grade.
  - (2) Shrubs shall be located on an average of four (5) shrubs for each forty foot (40') of street frontage, and shall be a minimum of five (5) gallons in size and a minimum of three foot (3') high at the time of planting.
  - (3) Upon approval at the time of platting, trees and shrubs may be clustered to create a more natural appearance.

- (4) Trees located in the rights-of-way shall not be arranged in a manner to interfere with traffic flow or traffic view. The decision of the City's Engineer shall be final for questions regarding traffic view or traffic safety.
  - (5) No trees or vertical plants shall be permitted within five feet (5') of any fire hydrant.
  - (6) The subdivider shall be responsible to maintain all new trees and shrubs located within the rights-of-way of public streets for a period of one year from the date of installation. Any tree or shrub that dies during this one-year period shall be replaced by the subdivider with an identical species and size of tree or shrub, or a substitute species as approved by the City Administrator or his/her designee.
- (b) Walls and Fencing. Decorative fencing, not to exceed five feet (6') shall be provided along all streets located along the perimeter of the subdivision as follows:
- (1) No wood fencing shall be permitted for required perimeter and collector street fencing.
  - (2) Major and principal arterials shall be fenced with decorative solid, masonry walls or open, fencing, that may include decorative metal integrated into the design of the wall.
  - (3) Collector streets may be fenced with decorative, open fencing materials only. Fencing along collector streets shall be located only where the lots either side or back to the collector roadway.
  - (4) The design of decorative masonry walls shall include articulation, including, but not limited to, variations in construction materials, color/texture and, architectural elements and detailing such as decorative columns, iron rails or decorative concrete caps.

(Ordinance 2011-03-161 adopted 6/21/11)

### **Section 3-14 Subdivision Entry Features**

Subdivisions shall include, at a minimum, one entry feature at the main entry to the subdivision, which shall be designated on the final plat. Such entry feature shall include the following:

- (a) Each entry feature shall be no more than eight feet (8') in height and shall be integrated into the design of any decorative masonry wall or open, perimeter fence.
- (b) All entry features must have a minimum landscaped area of two (2) square feet for each linear foot of the horizontal length of the entry feature. Landscape materials shall be native or naturalized, low maintenance and draught tolerant species as approved at the time of platting. In no case shall plant species be used that would typically grow to a height or width that would require frequent and regular pruning or trimming.
- (c) All landscaping of entryways shall be provided with an automatic irrigation system.



- (d) Illumination of entry features, when provided, shall be ground mounted with up-lighting that shall not spill onto any adjacent property.
- (e) Entry features may include the name and/or logo of the subdivision but must be approved at the time of platting of the property.
- (f) Entry features shall not interfere with traffic flow or traffic view. The decision of the City's Engineer shall be final for questions regarding traffic view or traffic safety.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 3-15 Park Land Dedication and In Lieu Fees**

(a) Purpose. The purpose of this section is to provide for neighborhood parks as a condition of subdivision development in the City of New Fairview. The City Council of the City of New Fairview hereby finds as follows:

- (1) Recreational areas, in the form of neighborhood parks, are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and developing property as a residential subdivision in the City of New Fairview, whether such development consists of new construction on previously vacant land or rebuilding and redeveloping existing residential areas.
- (2) Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby, the standards for which are set forth in the New Fairview Parks, Recreation and Open Space Master Plan.
- (3) The cost of neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities.

[(b) Reserved.]

(c) Authority. This section is enacted in accordance with the Home Rule powers of the City of New Fairview, granted under the Texas Constitution and statutes of the State of Texas.

(d) Applicability.

- (1) This section shall apply to any division or development of land for residential use.
- (2) Any dedication for parks and public open space areas shall be clearly designated on the preliminary plat and the final plat, and shall be subject to approval by the City's Park Board and by the City Council.

(e) Developer's Obligation. Prior to a filing a final plat with the Clerk of the County in which the residential development is located, the subdivider shall dedicate one (1) acre of land for neighborhood parks for each 75 proposed dwelling units, or pay an equivalent fee in lieu of

dedication, as provided in subsection (g). As used in this section, a “dwelling unit” means each individual residence, including individual residences in a multi-family structure, designed and/or intended for inhabitation by a single family. Population shall be calculated based upon 2.75 persons per dwelling unit.

(f) Determination of Suitability. The City Council shall determine the suitability of land proposed to be dedicated as a neighborhood park, upon the recommendation of the Parks Board, and taking into consideration the following factors. If the City Council determines that land proposed for neighborhood park dedication is unsuitable in whole or part, it may require payment of park fees in lieu of land dedication, as set forth in subsection (g), require a combination of land dedication and payment of fees, or condition plat approval on a different configuration of park land within the proposed development.

(1) Character of area:

- (i) Any area primarily located in the 100 year flood plain.
- (ii) Any areas of unusual topography or slope which renders same unusable for organized recreational activities.
- (iii) Drainage areas may be accepted as part of a park if the channel is to remain predominantly in its natural state or constructed in accordance with City engineering standards, if no significant area of the park is cut off from access by such channel, if not less than five (5) acres of the site is above the 100 year flood plain, or if the dedication is in excess of ten (10) acres, not more than fifty percent (50%) of the site should be included in the 100 year flood plain.

(2) Size of park. For purpose of this section an area of land less than five (5) acres presumptively is impractical for neighborhood park purposes.

(3) Access. Each park shall have pedestrian and vehicular access from one or more public streets. Street frontage shall be required to assure public access to park land.

(4) Proximity of existing park land. Land dedication may be unsuitable if there are sufficient parks already in the public domain for the area of the proposed development, or if the recreation potential for that area would be better served by expanding or existing neighborhood parks.

(5) Drainage. The park land shall have adequate drainage, as determined by the City Public Works Director, who shall review all construction plans for any detention or retention proposed to be built on the land to be dedicated.

(6) Trash removal. The subdivider shall remove all trash, effuse and waste materials from the dedicated park land prior to acceptance by the City.

(g) Fees In Lieu of Land.

- (1) At the City Council’s option, the subdivider or developer shall satisfy in whole or in part the requirements of this section for neighborhood parks by paying a fee in lieu of land dedication. The City Council from time to time may promulgate a schedule of in lieu fees. In the absence of a fee schedule, the cash payment in lieu of land dedication

per acres shall be determined by taking the fair market value of one (1) acre of land, derived from the average of three separate, unimproved one-acre parcels of land that are deemed to be comparable to the land being subdivided within reasonable proximity to the land being platted.

- (2) Such payment in lieu of land shall be made prior to final plat approval, or may be deferred until the time of application for a building permit.

(h) Special Fund and Right to Refund.

- (1) All fees in lieu of dedication collected under this section shall be deposited in the City of New Fairview’s Neighborhood Park Land Fund and used solely for the purchase, lease or other acquisition of neighborhood park land, site preparation, and installation of utilities. All expenditures from the said Fund shall be authorized by the City Council. Funds must be spent within one (1) mile of the subdivision from which the fees are collected. In the event the City subsequently designates neighborhood park benefit areas, existing funds may be reasonably allocated among such service areas proportional to the benefits received and thereafter shall be earmarked for expenditure within such benefit areas.
- (2) The City of New Fairview shall account for all fees paid into the Neighborhood Park Land Fund. Any monies paid into the Fund must be expended by the City of New Fairview within ten (10) years from the date collected by the City. Such funds shall be considered to be spent on a first in, first out basis in a particular park service area. If not so expended within the ten (10) year period, the owners of the property will, on the last day of such period, be entitled to a refund of the remaining fees. The current owners of the property within the subdivision must request such a refund within one (1) year of entitlement, in writing, or such right is waived.

(Ordinance 2011-03-161 adopted 6/21/11)

**Section 3-16 Utilities Underground**

All utilities within a residential development shall be placed underground. Utilities are defined for this purpose as water pipelines, wastewater pipelines, storm water pipelines, natural gas pipelines, telephone wires, cable TV wires and electric wires. In case of special or unique circumstances, the City Council may grant waivers to this requirement. Any request for a waiver should be submitted in writing to the City of New Fairview setting forth the justification. (Ordinance 2011-03-161 adopted 6/21/11)

**[Article IV. Reserved]**

**Article V. Construction\***

**Section 5.01. General**

A. A Reconstruction [pre-construction] conference is required prior to start of any construction. The meeting shall include the Contractor, City Engineer, Developer’s Engineer, and

---

\* **Editor’s note**—At the direction of the city, article 5 (Construction) of the previous subdivision ordinance, Ordinance 1996-01-005 adopted 7/14/97, has been retained. Article 5 is included herein as article V.

the City Council. If the construction has been divided among multiple contractors, the Developer shall designate one representative for the entire development. Only one pre-construction meeting will be held.

B. If the Developer has divided the construction of the public improvements among more than one Contractor, the Developer shall designate one person to represent all of the construction for the development.

C. All required safety plans and barricade plans shall be submitted for approval by the City of Fairview prior to the start of any construction.

D. The Developer shall post a sign at the entrance to the subdivision which states that said subdivision has been approved for construction. The sign shall be clearly visible and shall be posted prior to construction. The Developer shall be responsible for maintaining the sign until the Maintenance Bond expires. See Article 7 - Construction Standards for sign details.

**Editor's note**—Article 7 has been omitted as replaced by the TCSS Manual.

E. Prior to the construction of said improvements, the Developer, or the authorized agents thereof, shall be required to furnish to the City a good and sufficient Performance and Payment Bond or any other acceptable form of surety approved by the City and in an amount equal to the total cost of said improvements and guaranteeing their construction. The bonds or other acceptable surety shall be in accordance with Chapter 212 of the Texas Local Government Code.

(Ordinance 1996-01-0005 adopted 7/14/97)

### **Section 5.02. Inspection**

A. All construction, such as: road grading, road paving, drainage structures, curb and gutter, and storm, may be subject to inspection during the construction period by the proper authorities of the City, and shall be constructed in accordance with the approved Construction Plans and Article 6, "Design Criteria".

**Editor's note**—Article 6 has been omitted as replaced by the TCSS Manual.

B. During the progress of the work, all materials, equipment and workmanship may be subjected to such inspections and tests as will assure conformance with the City requirements. All testing shall be done by a testing laboratory acceptable to the City and at the Developer's expense. The City shall select the location of all testing. The Contractor is solely responsible for coordination with the testing laboratory, for scheduling of the tests, and for timely delivery of the results to the City of Fairview. The City may elect to perform additional testing above and beyond that required by the specifications. The Contractor shall reimburse the City for the cost of any failed test. All conformity inspection must be complete and reports presented to the City before final inspections.

(Ordinance 1996-01-0005 adopted 7/14/97)

**Section 5.03. Final Inspection**

A. The City Council, or a duly authorized representative, the City Engineer, and a Contractor's representative shall perform a final inspection. If the Developer has divided the construction of the public improvements among more than one contractor, the Developer shall designate one person to represent all of the construction for the development. There will be only one final inspection of the development.

B. The City Representative shall prepare a list of items that need to be completed prior to the final acceptance of the project.

(Ordinance 1996-01-0005 adopted 7/14/97)

**Section 5.04. Record Drawings**

Upon completion of the construction, the Developer shall request a final inspection of the work. The Developer shall provide one (1) good quality reproducible mylar, and one (1) full-size blue line record drawing. The mylar must be revised by the Developer to reflect construction records prior to the final inspection. The record drawings must be approved by the City Engineer prior to the final acceptance of the subdivision. The record drawings shall include a copy of the approved Final Plat. (Ordinance 1996-01-0005 adopted 7/14/97)

**Section 5.05. Maintenance Bond**

All persons desiring to subdivide or resubdivide a tract of land within the limits of the City of Fairview shall be required to maintain all public improvements in such new subdivision at their own cost, and without cost to the City for a period of two (2) years from the date of the completion of said public improvements and their acceptance by the City, [and] the Developer, or the authorized agents thereof, shall be required to furnish to the City a good and sufficient Maintenance Bond or other acceptable surety approved by the City in an amount equal to the total cost of said improvements and guaranteeing their maintenance for the period of time set forth in this Section. (Ordinance 1996-01-0005 adopted 7/14/97)

**Section 5.06. Acceptance by the City**

A. Once all the requirements of the City have been met, the City Engineer shall recommend acceptance of the subdivision in the form of a letter to the City Council.

B. Acceptance by the City shall be in the form of a letter from the City of Fairview. The letter shall state that inspections were conducted and that the facilities were completed in accordance with specifications and standards provided for herein or approved by the City Council at the time the Final Plat was approved for said subdivision.

(Ordinance 1996-01-0005 adopted 7/14/97)



**EXHIBIT B**

**ZONING ORDINANCE**

Article 1. General Provisions ..... 9B-3

Section 1 Title ..... 9B-3

Section 2 Purpose ..... 9B-3

Section 3 Establishment of Districts ..... 9B-4

Section 4 Zoning District Map ..... 9B-4

Section 5 Rules for Interpretation of District Boundaries ..... 9B-5

Section 6 Zoning Annexed Territory..... 9B-6

Section 7 Application of District Regulations..... 9B-6

Section 8 Building Permits and Certificates of Occupancy ..... 9B-6

Section 9 Platting of Property not Properly Zoned ..... 9B-8

Section 10 Pre-existing Uses, Lots, and Structures..... 9B-8

Article 2. Permitted Uses..... 9B-9

Section 11 Permitted Use Table ..... 9B-9

Section 12 Special Conditions for Listed Uses ..... 9B-14

Section 13 Classification of New and Unlisted Uses ..... 9B-18

Article 3. Zoning Districts..... 9B-19

Section 14 “A” Agriculture District ..... 9B-19

Section 15 “SF” Single-Family District ..... 9B-20

Section 16 “MH” HUD-Code Manufactured Housing Residential District..... 9B-21

Section 17 “C” Commercial District..... 9B-25

Section 18 “M” Manufacturing District ..... 9B-26

Section 19 “PD” Planned Development District..... 9B-27

Article 4. Supplementary Regulations..... 9B-31

Section 20 Site Plan Requirements ..... 9B-31

Section 21 Specific Use Permits ..... 9B-33

Section 22 General Height Requirements ..... 9B-37

Section 23 General Yard Requirements ..... 9B-37

Section 24 Accessory Buildings..... 9B-39

Section 25 Home Occupations ..... 9B-40

Section 26 Temporary Uses and Special Events ..... 9B-40

Section 27 Off-Street Parking and Loading Requirements ..... 9B-43

Section 28 Screening..... 9B-48

Section 29 Landscaping ..... 9B-50

Section 30 Wireless Communication Facilities..... 9B-58

Section 31 Outdoor Lighting..... 9B-65

Section 32 Cargo Containers..... 9B-69

Section 33 Nonconforming Uses, Lots, and Structures..... 9B-71

Article 5. Administration.....	9B-75
Section 34 Administration and Enforcement .....	9B-75
Section 35 Completion of Buildings Under Construction.....	9B-75
Section 36 Zoning Board of Adjustment.....	9B-75
Section 37 Duties of City Council.....	9B-82
Section 38 Fee Schedule .....	9B-82
Section 39 Amendments.....	9B-82
Section 40 Violations and Penalties .....	9B-83
Section 41 Severability.....	9B-84
Article 6. Definitions.....	9B-84
Section 42 Rules for Words and Phrases .....	9B-84
Section 43 Definitions.....	9B-85



**EXHIBIT B**

**ZONING ORDINANCE\***

**ORDINANCE NO. 2010-01-149**

Section 1. That a new text document, being a new Zoning Ordinance for the City of New Fairview is adopted to replace Ordinance No. 1999-20-0047 with the new Zoning Ordinance being dated August 20, 2009 and provided herein as Exhibit “A,” Ordinance No. 1999-20-0047 being repealed in its entirety.

Section 2. That a new Zoning Map dated August 2009, as provided in Exhibit “B” is adopted to replace the existing Zoning Map previously existing.

Section 3. That this Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance.

Section 4. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portion of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5. This Ordinance shall take effect from and after its date of passage in accordance with law, and it is so ordained.

**Article 1. General Provisions**

**Section 1 Title**

This ordinance shall be known as and may be cited and referred to as the “Zoning Ordinance of the City of New Fairview,” which includes narrative regulations and map. (Ordinance 2010-01-149 adopted 1/19/10)

**Section 2 Purpose**

The purpose of this ordinance is to establish zoning regulations and districts in accordance with the City of New Fairview Comprehensive Land Use Plan for the purpose of promoting health, safety, morals and general welfare of the City of New Fairview. They have been designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other

---

\* **Editor’s note**—References herein to “city manager” were corrected to “city administrator,” without notation.

things, of the character of each district and its peculiar suitability for the particular uses specified, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community consistent with the City of New Fairview Comprehensive Land Use Plan. Nothing herein shall be construed to grant “permanent” zoning. (Ordinance 2010-01-149 adopted 1/19/10)

**Section 3            Establishment of Districts**

The City is hereby divided into five straight zoned districts and one special district. The use, height, and development regulations as established are uniform in each district. The districts established herein shall be known as follows;

<u>Abbreviated Designation</u>	<u>Straight Zoned Districts</u>
A	Agriculture District
SF	Single-Family District
C	Commercial District
M	Manufacturing District
MH	HUD-Code Manufactured Housing District
	<u>Special Districts</u>
PD	Planned Development District

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 4            Zoning District Map**

**4.1 BOUNDARIES**

The boundaries of the zoning districts are delineated on the zoning district map of the City, which is incorporated in and made a part of this ordinance for all purposes.

**4.2 ADOPTION**

Original, official, and identical copies of the zoning district map are hereby adopted and shall be identified by the signature of the mayor, attested by the City secretary, and bearing the seal of the City under the following words: “This is to certify that this is the official zoning map of the City of New Fairview, Texas,” together with the date of adoption. The zoning district map shall be filed and maintained as follows:

- A. One copy shall be filed with the City secretary and retained as the original record and shall not be changed in any manner. A second reproducible copy shall be filed with the City secretary and shall be the official zoning district map. This map shall be maintained by posting on the map all changes and subsequent amendments after their enactment for the use of the City Council.
- B. One copy shall be filed with the administrative official and shall be maintained by posting on the map all changes and subsequent amendments.

- C. Reproductions for information purposes may, from time to time, be made of the official zoning district map.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 5            Rules for Interpretation of District Boundaries**

**5.1 UNCERTAINTY OR CONFLICTS IN DISTRICT**

- A. Centerlines. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- B. Lot Lines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. City Limits. Boundaries indicated as approximately following City limits shall be construed as following City limits.
- D. Railroads. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Shorelines. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, drainage courses, creeks, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
- F. Extensions of Features. Boundaries indicated as parallel to or extensions of features indicated in subsections A through B [A through E] above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- G. Vacated Public Way. Whenever any street, alley, or other public way is vacated by official action of the City Council, the zoning district line adjoining each side of the street, alley, or other public way shall be automatically extended to the centerline of the vacated street, alley, or way, and all area so involved shall be subject to regulations of the extended districts.
- H. Variance of Physical Features and Official Zoning Map. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of subsections A through G above, the property shall be considered as classified in the “AG” Agriculture district, in the same manner as provided for newly annexed territory, and the issuance of a building permit and the determination of zoning shall be in accordance with the provisions provided in Section 6, Zoning Annexed Territory.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 6            Zoning Annexed Territory**

**6.1 CLASSIFICATION OF NEWLY ANNEXED TERRITORY**

All territory which hereafter is annexed to the City shall automatically be considered to be in the “A” Agricultural district. The procedure for establishing zoning on annexed territory shall conform to the procedure established by state law for the adoption of original zoning regulations.

**6.2 ALTERNATIVE ZONING OF NEWLY ANNEXED TERRITORY**

The City Council or petitioners for annexation may request alternative zoning classifications in an area being considered for annexation. The City Council may hold public hearings on annexation and zoning simultaneously, and may approve the zoning of a newly annexed area at the time of annexation.

**6.3 CONSTRUCTION IN NEWLY ANNEXED TERRITORY**

No person shall erect, construct, or proceed or continue with the erection or construction of any building or structure, add to any building or structure, or cause the same to be done in any newly annexed territory without first applying for and obtaining a building permit or certificate of occupancy from the building official. No permit for construction of a building or use of land shall be issued by the building official other than a permit which will allow the construction of a building permitted in the “A” Agricultural district.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 7            Application of District Regulations**

**7.1 CONFORMANCE REQUIRED**

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

**7.2 PROVISIONS OF ORDINANCE ARE MINIMUM REQUIREMENTS**

In their interpretation and application, the provisions of this ordinance shall be construed to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, morals, and general welfare. Wherever this ordinance imposes a greater restriction than imposed by other ordinances, laws, or regulations, the provisions of this ordinance shall govern.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 8            Building Permits and Certificates of Occupancy**

**8.1 BUILDING PERMIT REQUIRED**

No building or other structure shall be erected, moved, added to, or structurally altered without a building permit issued by the administrative official. No building permit shall be issued for any building or structure except in conformity with the provisions of this ordinance. No permit for the

construction of a building or buildings upon any land shall be issued until a building site has been created by the land being a platted lot appearing on a plat properly approved by the City and filed in the records of the county clerk of Wise County.

- A. Application for building permit: All applications for building permits shall be accompanied by plans in triplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alteration; existing or proposed uses of the building and land; housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance. One copy of the plans shall be returned to the applicant by the administrative official, that has markings on the copy either as approved or disapproved and attested to same by his signature on such copy. The original and one copy of the plans, similarly marked, shall be retained by the administrative official.
  
- B. Expiration of Building Permit: If the work described in any building permit has not begun within six calendar months from the date of issuance thereof, said permit shall expire, and work shall not proceed until a new building permit has been obtained.

## 8.2 CERTIFICATE OF OCCUPANCY REQUIRED

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefor by the administrative official stating that the proposed use of the principal building or land conforms to the requirements of this ordinance.

- A. No permit for erection, alteration, moving or structural repair of any building shall be issued until an application has been made for a certificate of occupancy, and the certificate shall be issued in conformity with the provisions of this ordinance upon completion of the work.
  
- B. A temporary certificate of occupancy may be issued by the administrative official for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that said temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.
  
- C. The administrative official shall maintain a public record of all certificates of occupancy.
  
- D. Failure to obtain a certificate of occupancy shall be a violation of this ordinance and punishable under Section 40, Violations and Penalties of this ordinance.

**8.3 CONFORMANCE REQUIRED**

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed violation of this ordinance, and punishable as provided by Section 40, Violations and Penalties hereof.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 9            Platting of Property not Properly Zoned**

The City Council shall not approve any plat until the area covered by the proposed plat is or shall be zoned to the proper zoning classification by the City Council. (Ordinance 2010-01-149 adopted 1/19/10)

**Section 10          Pre-existing Uses, Lots, and Structures**

**10.1 PRE-EXISTING USES**

Uses, that are in existence prior to the effective date of this ordinance, shall be deemed to be legal nonconforming uses in accordance with Section 33, Nonconforming Uses, Lots, and Structures.

**10.2 PRE-EXISTING LOTS**

Lots and parcels of land, that are in existence prior to the effective date of this ordinance and do not meet the requirements provided herein, shall be deemed to be legal nonconforming lots and shall be exempt from the area requirements of the zoning districts. Lots or parcels having existing structures thereon prior to the effective date of this ordinance shall be exempt from the front, rear, and side yard setback requirements for all structures located thereon at that date. However, new construction for structures located thereon after the effective date of this ordinance shall be required to meet the setback requirements of the respective district applicable to that lot.

**10.3 PRE-EXISTING STRUCTURES**

Structures, that are in existence prior to the effective date of this ordinance and do not meet the requirements provided herein, shall be deemed to be legal nonconforming structures and shall be exempt from the area and height requirements of the zoning districts. Said structures shall be permitted to be expanded, repaired, and remodeled without meeting the area requirements for structures. However, said structures are not exempted from the height regulations for new construction after the effective date of this ordinance that exceeds the regulations provided in the respective district applicable to the property on which that structure is located.

(Ordinance 2010-01-149 adopted 1/19/10)

**Article 2. Permitted Uses**

**Section 11 Permitted Use Table**

11.1 LAND USE TABLE LEGEND

The following table presents the zoning district classifications and the permitted uses within those classifications. Uses are listed as being “Permitted”, permitted by “Specific Use Permit”, and prohibited uses as signified by blank cells. Conditions are provided in Section 12, Special Conditions for Listed Uses. Any use not expressly authorized and permitted herein is expressly prohibited.

P Permitted Use

S Specific Use Permit

Prohibited Use

11.2 LAND USE TABLE

P = Permitted Use      S = Specific Use Permit      Blank = Prohibited Use

**City of New Fairview Land Use Table**

Residential						Land Use Designation	Nonresidential				Special Conditions	
				A	SF	MH		C	M			
<b>Residential Uses</b>												
				P	P	P	Agricultural Use	P	P			
							Apartment					
							Boarding House	P				
				P	P	P	Caretaker, Guard or Servant Residence or Garage Apartment	P	P			13
				P	P		Dwelling, Guesthouse					
				S	S		Convent, Rectory, Monastery	P				
							Dwelling, Assisted Living Facility	P				
				S		P	Dwelling, HUD-Code Manufactured Home					18
				P	P	P	Dwelling, Industrialized Housing					
							Dwelling, Mobile Home					
							Dwelling, Multi-family					
							Dwelling, Single-Family Attached					
				P	P	P	Dwelling, Single-Family Detached					13
							Dwelling, Two-Family					
				P	P		Group Home for the Disabled or Disadvantaged					
						P	Manufactured Housing Park or Subdivision					

Residential				Land Use Designation			Nonresidential			Special Conditions
<b>Public, Civic and Utility Uses</b>										
			S			Airport, Public/Private	P	P		2
			S			Animal Pound, Shelter	S	S		1
			S			Assembly Hall	P	P		
			S	S	S	Athletic Field and Play Field, Public				1
			S	S	S	Cemetery, Mausoleum, Crematorium	S	S		
			S	S		Community Center	P	P		2, 7
			P	P	P	Electrical Generating Station	P	P		
			P	P	P	Electrical Transmission Line	P	P		
						Garage, Public	S	P		2, 7, 9
			P	P	P	Gas Regulator Station	P	P		
			S	S	S	Golf course, Public	P	P		
			P	P	P	Governmental Administration Facility	P	P		22
			S			Library	P	P		
			S			Lodge, Fraternal, Sorority and Clubs	P	P		
						Museum	P	P		
			P	P	P	Park	P	P		
						Philanthropic and/or Charitable Use	P	P		
			S	S	S	Public Maintenance Building, Storage Yard	S	P		7, 9
			P	P	P	Public Safety Facility, Police and Fire	P	P		
			P	P	P	Public Utility	P	P		
			S	S	S	Religious Institution	P	P		2, 7
			P	P	P	Telephone Exchange, Switching or Relay	P	P		
<b>Educational Uses</b>										
						School, Business College	P			
						School, College or University	P			
						School, Commercial Instruction	P			
						School, Commercial Trade	P			
			P	P	P	School, Home				8
			P	P	P	School, Home Day				8
						School, Institution, Rehabilitation and Training Center	P	P		
			S	S	S	School, Nursery	P	P		8
			P	P	P	School, Primary or Secondary	P	P		1, 7
						School, Vocational	P	P		
<b>Amusement and Entertainment Uses</b>										
						Amusement Center, Indoor	P	P		7
						Amusement Center, Outdoor	S	P		1, 7
			S			Athletic Field and Play Field, Commercial	P	P		2, 7
						Auditorium	P	P		7
						Camp Ground and Related Facilities	P	P		
			S	S	S	Country Club	P	P		7
			S			Golf Course, Driving Range	S	P		2
						Golf Course, Miniature	P	P		
			S	S	S	Golf Course, Private	P	P		2, 7



Residential						Land Use Designation	Nonresidential			Special Conditions
						Go-Cart Track and Other Vehicular Track or Facility		S		1, 7, 14
						Gymnasium	P	P		
			P	P	P	Private Club	P	P		
			P			Recreational Ranch or Farm				
			S			Rodeo Ground/Fair Ground		P		2, 7, 5
						Skating Rink, Indoor	S	P		2
			S			Stable, Commercial		S		2
			P	S	S	Stable, Private	S	S		
						Swimming Pool, Commercial	P	P		
						Shooting Range, Indoor	S	P		2
						Shooting Range, Outdoor		S		2
						Theater, Indoor Motion Picture	P	P		7
						Water Park, Commercial	S	P		1, 7
<b>Medical Uses</b>										
						Clinic	P	P		
						Hospital	P	P		7
						Laboratory, Medical and/or Dental	S	P		2
						Medical, Dental and Optical Retail Sales	P	P		
						Medical, Dental Office	P	P		
						Medical Equipment Sales, Rental, and Leasing Service	P	P		
			S	S	S	Nursing Home	P	P		2, 7
						Optician Shop	P	P		
						Veterinary Hospital with Outside Pens		S		7, 16
						Veterinary Hospital without Outside Pens	S	P		2
						Veterinarian Office, Small Animal Practice	P	P		
						Veterinarian Office, Large Animal Practice	S	P		2
<b>Automotive Uses</b>										
						Auto Auction		S		2, 7, 9
						Auto Car Wash	P	P		1, 7
						Auto Impound Lot/Wrecker Business				
						Auto Paint and Body Shop		S		2, 3, 7, 10
						Auto Parts and Accessory Sales	P	P		7
						Auto Rental (Car and Truck)	P	P		7, 11
						Auto Repair Garage	S	P		2, 7, 9, 10
						Auto Sales, New and Used	S	S		2, 7, 9, 10
						Auto Service Station	S	P		2, 7, 9
						Bus, Train and Taxi Station or Terminal	S	P		2
						Farm Machinery and Implement Sales and Service	S	P		2, 7, 11
						Heliport	S	P		2
						Helistop	S	P		2

Residential						Land Use Designation	Nonresidential				Special Conditions
						Motor Freight Terminal		S			2, 7
						Park and Ride Lots	P	P			
						Parking Lot, Commercial (Auto)	S	P			
						Parking Lot, Commercial (Truck)		S			
						Recreational Vehicle Storage (Commercial)		S			2, 7, 11
			S	S	S	Private Airstrip	S	S			2
<b>Professional Uses</b>											
						Bank, Savings and Loan Association, Financial Institution	P	P			7
						Office, Business	P	P			7
						Office, Professional	P	P			7
						Office, Real Estate Development Tract or Field Office	P	P			7
<b>Commercial, Retail, and Service Uses</b>											
						Ambulance Service	P	P			7
						Animal Grooming	P	P			7
						Antique Shop	P	P			7
						Apparel Alteration and Repair or Tailor Shop	P	P			7
						Appliance Repair, Household	P	P			7
						Art Gallery	P	P			7
						Arts, Crafts, and Hobby Shop	P	P			7
						Auction House, Indoor	S	P			2, 7
						Bakery, Retail Confectionery	P	P			7
						Bakery, Wholesale Candy	P	P			7
						Barber Shop, Beauty Salon, other Personal Shop	P	P			7
						Building Material Sales	S	P			2, 7
						Cabinet and/or Upholstery Shop	S	P			2, 7
						Catering Service	P	P			7
						Collectibles Shop	P	P			7
						Contractor, no Outside Storage Permitted	P	P			7
						Contractor, Outside Storage Permitted	S	P			2, 7, 11
						Contractor Storage or Equipment Yard		P			2, 7, 11
						Convenience Store, with or without Fuel Sales	P	P			7
						Copy Shop	P	P			7
						Cosmetic Tattoo Establishment					
						Day Care Center, Adult	P	P			
						Day Care Center, Child	P	P			
			P	P	P	Day Care, in the Home	P	P			
						Department Store	P	P			7
						Exterminating Service	S	P			2
						Factory Outlet, Retail or Wholesale Store	S	P			2, 7
			P			Farmer's Market, Outdoor		S			

Residential						Land Use Designation	Nonresidential				Special Conditions
						Flea Market					
						Funeral Home, Mortuary	S	P			
						Furniture, Fixture and Appliance Store	P	P			7
						Gift Shop	P	P			7
			S			Greenhouse or Plant Nursery		P			7
						Grocery Store	P	P			7
						Hardware Store	P	P			7
						Health Club, Recreation Facility	P	P			7
			P	P	P	Hobby Studio, Private	P	P			7
						Hotel, Motel	P	P			7
						Kennel	S	P			2, 7
			S			Landscape Service	S	P			2, 7
						Laundry, Dry Cleaning Full-Service	S	P			2, 7
						Laundry, Dry Cleaning Pickup and Receiving Station	P	P			7
						Laundry, Dry Cleaning Self-Service	P	P			7
						Lithography or Print Shop	P	P			7
						Locksmith Shop	P	P			7
						Machinery Sales or Repair	S	P			3, 7, 9
						Manufactured or Industrialized Home Sales or Rental		P			7
						Meat Market		S			2, 7
						Music Store	P	P			7
						Office Machine Sales and Service	P	P			7
						Office Supply Store	P	P			7
						Pawn Shop	P	P			7
						Pet Shop	P	P			7
						Pharmacy	P	P			7
						Photographic Equipment Sales and Service	P	P			7
						Photographic Service	P	P			7
						Radio, Television Studio	P	P			7
			P	S	S	Recycling Collection Center	S	P			2, 7, 19
						Rental Store	S	P			2, 7, 11
						Rental Yard, Commercial and Heavy Equipment	S	P			2, 3, 7, 9
						Restaurant	P	P			7
						Restaurant, Drive-in/Drive-thru	P	P			7
						Restaurant, Refreshment Stand (Temporary or Seasonal)	P	P			7
						Sexually Oriented Business					15
						Shoe Repair	P	P			7
						Sign Shop, Painted or Silk-screened	P	P			7
						Studio	P	P			7
						Stone Monument Sales	P	P			7
						Tattoo Parlor/Body Piercing Studio	P	P			7
						Taxidermist Studio	P	P			7
						Taxidermist Shop	S	P			2, 7

Residential						Land Use Designation	Nonresidential				Special Conditions
						Tobacco Shop	S	P			2, 7
						Video/Game Rental	P	P			7
						Watch and/or Jewelry Sales and Repair	P	P			7
<b>Manufacturing and Industrial Uses</b>											
						Assembly Plant		P			7
						Bottling Works		P			7
						Building Materials Manufacturing		P			7
						Dairy Processing		S			7
						Electronics Manufacturing		P			7
						Laundry, Dry Cleaning and Dyeing Plant		S			7
						Machine Shop		P			7
						Manufacturing Facility (Light)		P			7
						Meat Product Processing					
						Mini-warehouse		P			1, 3, 7, 9
						Pharmaceutical Plant					
			S	S	S	Oil and Gas drilling and production	P	P			
						Plastic Products Manufacturing					
						Wireless Transmission or Receiving Facility	(As regulated by Sec. 30)				
						Salvage Yard					
						Stockyard					
						Storage and Warehousing Establishment		P			7
						Storage Yard		P			7, 3
						Textile Manufacturing					
						Warehousing, Freight Office and/or Storage		P			7
						Welding or Machine Shop		P			7, 9
			P			Wind Generation Turbine, Large		P			21
			P	S	S	Wind Generation Turbine, Small	S	P			20
<b>Accessory Uses</b>											
			P	P	P	Accessory Building	P	P			
			P	P	P	Carport, Residential					
			S			Christmas Tree Sales	P	P			6
			P	P	P	Home Occupation					
			P	P	P	Temporary Construction Building	P	P			6
			P	P	P	Utility Buildings and Structures	P	P			

(Ordinance 2010-01-149 adopted 1/19/10; Ordinance 2012-05-167, sec. 1, adopted 10/16/12)

**Section 12 Special Conditions for Listed Uses**

**12.1 DESCRIPTION OF LAND USE TABLE CONDITIONS AND SPECIAL REGULATIONS**

The following describe conditions and special regulations for uses listed in the Permitted Use Table. Additional requirements may be added to these herein by the City Council as deemed necessary to protect the health, safety, and general welfare of the citizens of New Fairview. No construction or occupancy shall commence for any permitted use until the conditions herein stated or required by the City Council have been met.

1. A site plan will be required in accordance with Section 20, Site Plan Requirements.

2. A site plan, in accordance with Section 20, Site Plan Requirements, will only be required in districts which require a Specific Use Permit.
3. All storage shall be within completely enclosed buildings or effectively screened with screening not less than six feet nor more than eight feet in height, provided no storage located within 50 feet of such screening shall exceed the maximum height of such screening.
4. Temporary buildings for construction purposes for a period not to exceed the duration of such construction.
5. May not be located within 300 feet of any property zoned for a residential use or any property which is occupied by a church, public school, day care or nursing home. The measurement of distance shall be measured as a radius from the edge of the property line.
6. Permitted on a temporary basis only, in accordance with Section 26, Temporary Uses and Special Events.
7. All outdoor lighting, including parking lot lighting, shall be directed away from any property zoned or developed for residential uses.
8. A copy of the State Certification of licensing or registration as described in Section 42.052 of Chapter 42, Texas Human Resources Code must be provided to the City.
9. Shall not be used for the storage of wrecked vehicles, or the dismantling of vehicles or the storage of vehicle parts.
10. All vehicles being stored for repair shall be screened from all public rights-of-way.
11. All equipment shall be stored and displayed on a hard all-weather surface.
12. Antenna and towers shall be permitted and regulated in accordance with Section 30, Wireless Communications Facilities.
13. Accessory Dwelling/Garage Apartments are limited to a maximum of 500 square feet.
14. Any business which uses the operation of motor vehicles on-site, such as go-cart tracks, shall not be located within 500 feet from any residentially zoned property.
15. As regulated by Ordinance 2007-06-121 [article 5.05 of the Code of Ordinances]
16. Requires 20 acres for animal hospital in SF.
17. Must comply with Chapter 241 of the Texas Local Government Code
18. Except for the MH district, HUD-Code Manufactured housing is prohibited in any platted subdivision (either preliminary plat or final plat) platted after the effective date of this ordinance.

19. Shall be bundled and screened for outside storage
20. Small Wind Turbines shall meet the following standards:
  - (a) Small Wind Turbine shall not be installed or located within one hundred (100) feet from any property line.
  - (b) A Small Wind Turbine shall not be installed within fifty (50) feet of another structure on site.
  - (c) A Small Wind Turbine shall not be located within 250 feet of a residential structure located upon an adjoining lot or recorded parcel.
  - (d) No portion of a Small Wind Turbine, including any blade, guy wire or supporting structure, shall exceed a height, at a required front, side, or rear setback line, of thirty-five (35) feet. However, an additional one foot of height may be permitted for each additional foot the Small Wind Turbine is set back from the front, side, or rear setback line, up to a height not to exceed sixty-five (65) feet. Any height over sixty-five (65) feet must be approved as a special exception by the ZBA.
  - (e) No Small Wind Turbine shall generate a sound level in excess of 50 dBA, as measured at the nearest property line, during the hours of 7:00 a.m. to 10:00 p.m., nor a level in excess of 40 dBA during the hours of 10:00 p.m. to 7:00 a.m.
  - (f) Each Small Wind Turbine shall be operated and maintained in sound working order in conformance with the manufacturer's specifications at all times. This maintenance shall include the physical appearance of the device so it does not present an unsightly appearance. A copy of the manufacturer's specifications and use instructions shall be submitted to the City with any application prior to issuance of a building permit and shall be retained within the public file for that application.
  - (g) Any Small Wind Turbine that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such Wind Turbine shall remove the same within ninety (90) days of receipt of written notice from the City notifying the owner of such abandonment. If the owner does not remove the equipment, along with all associated and ancillary equipment, devices, structures or support for that wind turbine, or does not request a hearing before the ZBA on the issue of whether the equipment is abandoned and subject to removal, the City may remove the equipment and store it in a secure location. The owner shall have thirty (30) days, from the date the City removes said equipment, to reclaim the equipment. If the equipment is not reclaimed in accordance with this section, the City may dispose of the equipment in accordance with the City's existing policy for disposal of abandoned or lost property.
  - (h) Failure to remove an abandoned Small Wind Turbine within the allotted time shall be grounds to remove the device at the owner's expense.

- (i) A Building Permit, issued by the City of New Fairview, shall be obtained prior to the installation of a Small Wind Turbine system.
  - (j) Every Small Wind Turbine shall be installed strictly per the Manufacturer's Installation specifications, or as modified and certified by a Registered Professional Engineer licensed by the State of Texas.
  - (k) No Small Wind Turbine, or associated and ancillary equipment, batteries, devices, structures or support(s) shall be located within any required front, side or rear yard setback area.
  - (l) No wiring between a Small Wind Turbine and another Wind Turbine, or the main or accessory structure on site, or any associated and ancillary equipment, batteries, devices, structures or support(s) for any wind turbine, shall be located above ground level.
  - (m) When a Small Wind Turbine system is removed from a site, all associated and ancillary equipment, batteries, devices, structures or support(s) for that system shall also be removed.
21. Large Wind Turbines shall meet the following standards:
- (a) A Large Wind Turbine shall not be installed or located within three hundred (300) feet from any property line.
  - (b) A Large Wind Turbine shall not be installed within one hundred fifty (150) feet of another structure on site, unless directly mounted upon that structure.
  - (c) A Large Wind Turbine shall not be located within 500 feet of a residential structure located upon an adjoining lot or recorded parcel.
  - (d) No portion of a Large Wind Turbine, including any blade, guy wire or supporting structure, shall exceed a height of sixty-five (65) feet. Additional height may be permitted by special exception upon approval of the ZBA.
  - (e) No Large Wind Turbine shall generate a sound level in excess of 50 dBA, as measured at the nearest property line, during the hours of 7:00 a.m. to 10:00 p.m., nor a level in excess of 40 dBA during the hours of 10:00 p.m. to 7:00 a.m.
  - (f) Each Large Wind Turbine shall be operated and maintained in sound working order in conformance with the manufacturer's specifications at all times. This maintenance shall include the physical appearance of the devices so that it does not present an unsightly appearance. A copy of the manufacturer's specifications and use instructions shall be submitted to the City with any application prior to issuance of a building permit and shall be retained within the public file for that application.
  - (g) Any Large Wind Turbine that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such Wind Turbine shall remove the same within ninety (90) days of receipt of written

notice from the City notifying the owner of such abandonment. If the owner does not remove the equipment, along with all associated and ancillary equipment, devices, structures or support for that wind turbine, or does not request a hearing before the ZBA on the issue of whether the equipment is abandoned and subject to removal, the City may remove the equipment and store it in a secure location. The owner shall have thirty (30) days, from the date the City removes said equipment, to reclaim the equipment. If the equipment is not reclaimed in accordance with this section, the City may dispose of the equipment in accordance with the City's existing policy for disposal of abandoned or lost property.

- (h) Failure to remove an abandoned Large Wind Turbine within the time allotted shall be grounds to remove the device at the owner's expense.
- (i) A Building Permit, issued by the City of New Fairview, shall be obtained prior to the installation of a Large Wind Turbine system.
- (j) Every Large Wind Turbine shall be installed strictly per the Manufacturer's Installation specification, or as modified and certified by a Registered Professional Engineer licensed by the State of Texas.
- (k) No Large Wind Turbine, or associated and ancillary equipment, batteries, devices, structures or support(s) shall be located within any required front, side or rear yard setback area.
- (l) No wiring between a Large Wind Turbine and another Wind Turbine, or the main or accessory structure on site, or any associated and ancillary equipment, batteries, devices, structures or support(s) for any wind turbine, shall be located above ground level.
- (m) When a Large Wind Turbine system is removed from a site, all associated and ancillary equipment, batteries, devices, structures or support(s) for that system shall also be removed.

- 22. Governmental Administrative facilities and/or Police and Fire Public Safety facilities are exempted from regulations and requirements contained herein.

(Ordinance 2010-01-149 adopted 1/19/10; Ordinance 2012-05-167, sec. 2, adopted 10/16/12)

**Section 13      Classification of New and Unlisted Uses**

It is recognized that new types of land use may develop and forms of land use not anticipated herein may seek to locate in the City. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

13.1 ADMINISTRATIVE OFFICIAL ACTION

The administrative official shall refer the question concerning any new or unlisted use to the City Council requesting an interpretation as to the proper zoning classification into which such use should be placed. The use interpretation question shall be determined as to the nature of the use



and whether it involves dwelling activity, sales, processing; type of product, storage and the amount and nature thereof (i.e., enclosed or open storage); anticipated employment; transportation requirements; the general degree of noise, odor, fumes, dust, toxic material and vibration likely to be generated, if any; and the general requirements for public utilities such as water and sanitary sewer.

**13.2 CITY COUNCIL**

The City Council shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various zoning districts, and determine the zoning district or districts within which such use should be permitted. The City Council shall approve [such] use or make such other determination concerning the classification of such use as appropriate, based upon its findings of fact, and amend this ordinance to reflect said findings and decisions.

(Ordinance 2010-01-149 adopted 1/19/10)

**Article 3. Zoning Districts**

**Section 14 “A” Agriculture District**

**14.1 PURPOSE**

The purpose of the “A” Agriculture district is to provide for the continuance of farming, ranching, and gardening activities on land being utilized for these purposes. When land in an Agricultural district is needed for urban purposes, it is anticipated the zoning will be changed to the appropriate zoning district(s) to provide for the orderly growth and development in accordance with the comprehensive plan.

**14.2 PERMITTED USES**

Uses permitted in the “A” district shall be in accordance with Section 11.2, Permitted Use Table. However, the “A” district may have structures and uses that are customarily incidental to farming and ranching uses.

**14.3 DENSITY, AREA, YARD, HEIGHT, AND LOT COVERAGE REQUIREMENTS**

The requirements regulating the maximum permissible residential density, minimum lot size, minimum yard sizes, and maximum building height, as pertains to the “A” district, shall conform to the provisions provided in the Area Requirements for the “A” Zoning District table.

<b>“A” Zoning District Area Requirements</b>	
Maximum Density	1 unit per lot
Minimum Lot Area	2 Acres
Minimum Lot Width	100 ft.

<b>“A” Zoning District Area Requirements</b>	
Minimum Lot Depth	200 ft.
Minimum Front Yard	50 ft.
Minimum Side Yard	25 ft.
Minimum Side Yard adjacent to street (corner lot)	50 ft. (same as Front Yard)
Minimum Rear Yard	25 ft.
Maximum Building Height*	None
Minimum Dwelling Size	1,200 sq. ft.

**14.4 OFF-STREET PARKING AND LOADING REQUIREMENTS**

Off-street parking and loading requirements pertaining to uses allowed in the “A” district shall conform to the provisions of Section 27, Off-street Parking and Loading Requirements.

**14.5 ACCESSORY BUILDING AND STRUCTURE REGULATIONS**

Area regulations for accessory buildings or accessory structures shall be in compliance with Section 24, Accessory Buildings.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 15 “SF” Single-Family District**

**15.1 PURPOSE**

The purpose of the “SF” Single-Family district is designed to accommodate single-family residential developments on large lots. The district is appropriately located in proximity to agricultural uses.

**15.2 PERMITTED USES**

Uses permitted in the “SF” Single-Family district shall be in accordance with Section 11.2, Permitted Use Table.

**15.3 DENSITY, AREA, YARD, HEIGHT, AND LOT COVERAGE REQUIREMENTS**

The requirements regulating the maximum permissible residential density, minimum lot size, minimum yard sizes, and maximum building height, as pertains to the “SF” Single-Family district, shall conform to the provisions provided in the Area Requirements for the “SF” Single-Family Zoning District table.

<b>“SF” Zoning District Area Requirements</b>	
Maximum Density	1 unit per two gross acres*
Minimum Lot Area	1 Acre
Minimum Lot Width	100 ft. (at building line)
Minimum Lot Depth	100 ft.

<b>“SF” Zoning District Area Requirements</b>	
Minimum Front Yard	35 ft.
Minimum Side Yard	25 ft.
Minimum Side Yard adjacent to street (corner lot)	35 ft.(same as Front Yard)
Minimum Rear Yard	25 ft.
Maximum Building Height	40 ft.
Minimum Dwelling Size	1,200 sq. ft.

\*d.u. = dwelling unit

**15.4 OFF-STREET PARKING AND LOADING REQUIREMENTS**

Off-street parking and loading requirements pertaining to uses allowed in the “SF” district shall conform to the provisions of Section 27, Off-street Parking and Loading Requirements.

**15.5 MASONRY CONSTRUCTION**

Masonry construction shall consist of a minimum of 60 percent of the total ground floor exterior wall surface (exclusive of opening for light, ventilation and access) of residential building structures, to be of brick, stone or combination thereof, or of an equivalent masonry material as approved by the City Council.

**15.6 ACCESSORY BUILDING AND STRUCTURE REGULATIONS**

Area regulations for accessory buildings or accessory structures shall be in compliance with Section 24, Accessory Buildings.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 16 “MH” HUD-Code Manufactured Housing Residential District**

**16.1 PURPOSE**

The purpose of the “MH” HUD-Code Manufactured Housing residential district is to provide adequate space and restrictions for the placement of HUD-Code manufactured homes in the City within designated subdivisions. This does not include mobile homes as defined in this ordinance. The “MH” district is also established to provide housing densities compatible with existing and proposed neighborhoods by providing alternative housing types both in construction and economy within the “MH” district. It is the intent of the “MH” district to provide the maximum amount of freedom possible in the design of such developments and the grouping and layout of homes within such developments in order to provide amenities normally associated with planned residential areas.

**16.2 GENERALLY**

Land within the “MH” district will be developed as a HUD-Code manufactured home subdivision. Lots within the “MH” district will be sold to private individuals in strict conformance with the terms and conditions under which the subdivision was approved by the City Council. All roadways within a HUD-Code manufactured home subdivision shall be dedicated to the public. Private interior drives must be approved by the City. Land zoned “MH”

which is not developed as a HUD-Code manufactured home subdivision may be developed in accordance with “SF” zoning district regulations. In the “MH” district, no building or land shall be used and no building constructed, reconstructed, altered, or enlarged, unless otherwise provided in this ordinance.

**16.3 PERMITTED USES**

Uses permitted within the “MH” Manufactured Housing district shall be in accordance with Section 11.2, Permitted Use Table.

**16.4 DENSITY, AREA, YARD, HEIGHT, AND LOT COVERAGE REQUIREMENTS**

The requirements regulating the maximum permissible residential density, minimum lot size, minimum yard sizes, and maximum building height, as pertains to the “MH” district, shall conform with the provisions provided in the Area Requirements for the “MH” Zoning District table.

<b>“MH” Zoning District Area Requirements</b>	
Maximum Density	1 dwelling unit per Acre*
Minimum Lot Area	1 Acre
Minimum Lot Width	100 ft. (at building line)
Minimum Lot Depth	100 ft.
Minimum Front Yard	35 ft.
Minimum Side Yard	25 ft.
Minimum Side Yard adjacent to street (corner lot)	35 ft. (same as Front Yard)
Minimum Rear Yard	25 ft.
Maximum Building Height	35 ft.
Minimum Dwelling Size	1,200 sq. ft.

\*d.u. = dwelling unit

**16.5 DEVELOPMENT AND INSTALLATION REGULATIONS**

Any property developed within the “MH” district as a HUD-Code Manufactured Home or as a manufactured housing subdivision shall meet the following requirements:

- A. HUD-Code Manufactured Homes shall have the axles, wheels, and tow bar or tongue removed and shall be secured to a permanent foundation or footing and piers, all in accordance with manufacturer’s specifications.
- B. HUD-Code Manufactured Homes must have a minimum of an eighteen-inch crawl space under all homes.
- C. A concrete or asphalt surface with good drainage shall cover the area where a home is to be sited.
- D. Each HUD-Code Manufactured Home site shall have a slab or patio not less than twenty feet in length and six feet in width, comprised of concrete, flagstone, or similar substance installed adjacent to each site.
- E. HUD-Code Manufactured Homes shall have permanent steps installed at all exits.

- F. Each HUD-Code Manufactured Home shall have two covered Parking Spaces. All carports shall be built in place. Fiberglass or metal roofs shall be permitted.
- G. Skirting shall be securely attached between the HUD-Code Manufactured home and the ground on all sides within thirty days of home installation. Skirting materials shall consist of materials which are compatible with the design of the home and enhance its appearance. Unpainted or untreated corrugated metal, screen or wire, fiberglass, or lattice-type skirting is prohibited.
- H. Construction, siting, and installation of the homes shall be in conformance with applicable federal, state, and local codes and standards, and each manufactured home shall have affixed a seal of the appropriate federal or state department.
- I. Sanitation, fire protection, and underground utility services shall be provided to each lot in accordance with the City ordinances and regulations.
- J. Driveways shall be all weather - dust free construction and shall extend from the right-of-way to the carport or garage. No parking will be permitted on any portion of the lot on any other surface than an all weather - dust free surface.
- K. Drainage and garbage collection right-of-way, fire lanes, and utility easements shall be provided as required by the City. Such can be accomplished by designating all private interior drives within the project as easements for vehicular access and service.
- L. Soil conditions, groundwater level, drainage, flooding, and topography shall not create hazards to the developed portion of the property or the health and safety of the residents.
- M. HUD-Code Manufactured Home subdivisions shall be developed at densities comparable to adjacent residential uses or have adequate landscape buffering or open space to provide transition of uses. Adequate landscape buffering or open space for transition purposes shall be determined on an individual site basis and shall be subject to the approval of the City.
- N. Any structural alteration or modification of a HUD-Code manufactured home after it is placed on the site must be approved by the building official of the City of New Fairview. All structural additions shall comply with the City's building codes and ordinances.

#### 16.6 SITE-BUILT ADDITIONS

The addition of peaked roof facades, atrium entrances, garages, porches, and patios are encouraged in order to increase the compatibility with conventional single-family housing in the City.

#### 16.7 ACCESSORY BUILDING AND STRUCTURE REGULATIONS

Area regulations for accessory buildings or accessory structures shall be in compliance with Section 24, Accessory Buildings.

16.8 PARKING REQUIREMENTS

Parking requirements for the HUD-Code Manufactured Housing District shall be in compliance with Section 27, Off-street Parking and Loading Regulations.

16.9 INTERIOR DRIVES

The use of private interior drives must be approved by the City.

- A. Such interior drives shall have a minimum easement width of fifty (50) feet and shall have a minimum paved roadway width of thirty-one feet (31') back-to-back.
- B. Public interior streets shall be located within dedicated rights-of-way, and shall have a minimum paved roadway width provided in accordance with the applicable standards in the City of New Fairview Subdivision Regulations.
- C. All private interior drives, entrances, and service drives shall be constructed in accordance with City design standards. The developer shall bear the total cost of construction and maintenance of all such improvements.
- D. All parking areas and public streets shall be of concrete or asphalt construction, as approved by the City engineer.

16.10 UNDERGROUND UTILITIES

All utility lateral and service lines located within the “MH” District shall be installed underground.

16.11 OPEN SPACE AREA

Open space designated for the use and enjoyment of all residents shall be provided within a HUD-Code Manufactured Home subdivision at the ratio of five hundred (500) square feet for each of the first twenty (20) units, and two hundred (200) square feet for each additional unit in excess of twenty (20). Designated open space shall be developed and maintained for recreational and leisure activities and shall be located within the subdivision being developed.

16.12 SCREENING

A solid opaque screening wall or fence of not less than six (6) feet in height, measured at the highest finished grade, shall be provided along all perimeter property lines of a HUD-Code Manufactured Home subdivision which do not abut a dedicated street. Said screening wall or fence shall be masonry and of a decorative construction. This requirement can be waived or modified if natural or man-made physical features create an adequate separation or buffer from adjacent uses, as determined by the City. However, any request to waive this requirement shall be presented as an element of the site plan and shall be subject to approval at that time only.

**16.13 PRESERVATION OF SITE ASSETS**

When developing a HUD-Code Manufactured Home Subdivision, the following steps shall be taken to preserve on-site assets:

- A. Suitable available topsoil and desirable existing trees.
- B. Shrubs and ground cover shall be preserved and protected where practicable.
- C. Topsoil which is suitable and needed for later use in finished grading shall be stripped from areas to be occupied by structures, parking areas, streets and driveways, and from areas to be regraded or disturbed. This topsoil shall be collected and stored on the site in convenient places for future use and shall be free of debris during construction.

**16.14 DRAINAGE**

Engineering plans for drainage shall be submitted for review by the City at the time of site plan approval. All applicable requirements of the City shall be met.

**16.15 HUD-CODE MANUFACTURED HOME SALES**

HUD-Code Manufactured Home subdivisions shall be for residential purposes only. Sales of these homes shall be limited to those which become available on the market on an individual basis. Commercial sales and promotion are not permitted.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 17 “C” Commercial District**

**17.1 PURPOSE**

The purpose of the “C” Commercial district is to provide for compatible land, building, and structure uses primarily oriented to select retail convenience goods and services which supply the daily needs of residential neighborhoods, including neighborhood shopping centers, select low intensity office uses, and select community facility uses. The “C” Commercial district is most appropriately located at the intersection of collector streets and arterial streets and as a transition district between moderate and high density residential districts and higher intensity commercial and industrial districts.

**17.2 PERMITTED USES**

Uses permitted in the “C” Commercial district shall be in accordance with Section 11.2, Permitted Use Table.

**17.3 DENSITY, AREA, YARD, HEIGHT, AND LOT COVERAGE REQUIREMENTS**

The requirements regulating the minimum lot size, minimum yard sizes, maximum building height, and maximum percent of lot coverage by buildings, as pertains to the “C” district, shall conform with the provisions provided in the “C” Zoning District Area Requirements table.

<b>“C” Zoning District Area Requirements</b>	
Minimum Lot Area	0 sq. ft.
Minimum Lot Width	0 ft.
Minimum Lot Depth	0 ft.
Minimum Front Yard	25 ft.
Minimum Side Yard	None, except 35 ft. when adjacent to residential use
Minimum Side Yard adjacent to street (corner lot)	25 ft. (same as Front Yard)
Minimum Rear Yard	None, except 35 ft. when adjacent to residential use
Maximum Building Height	65 ft.

**17.4 OFF-STREET PARKING AND LOADING REQUIREMENTS**

Off-street parking and loading requirements pertaining to uses allowed in the “C” district shall conform with the provisions of Section 27, Off-street Parking and Loading Requirements.

**17.5 MASONRY CONSTRUCTION**

Masonry construction shall consist of a minimum of 65 percent of the total exterior wall surface (exclusive of opening for light, ventilation and access) of structures, to be of brick, stone or combination thereof, or of an equivalent masonry material as approved by the City Council.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 18 “M” Manufacturing District**

**18.1 PURPOSE**

The purpose of the “M” Manufacturing district is to provide for land, building, and structure uses encompassing a variety of mixed wholesale and warehousing activities, light manufacturing, processing, and assembly plants, general offices, and research and development laboratories. The “I” Manufacturing district is characterized by activities and facilities which are generally incompatible with residential areas by virtue of materials storage yards, truck traffic generation, noises, odors, flammable materials, etc., and rely on direct access to major thoroughfares and highways, and in many cases railroad facilities for the movement of raw supplies and finished products.

**18.2 PERMITTED USES**

Uses permitted in the “I” Manufacturing district shall be in accordance with Section 11.2, Permitted Use Table.



**18.3 DENSITY, AREA, YARD, HEIGHT, AND LOT COVERAGE REQUIREMENTS**

The requirements regulating the minimum lot size, minimum yard sizes, maximum building height, and maximum percent of lot coverage by buildings, as pertains to the “I” district shall conform with the provisions provided in the Area Requirements for the “M” Zoning District table.

<b>“M” Zoning District Area Requirements</b>	
Minimum Lot Area	None
Minimum Lot Width	None
Minimum Lot Depth	None
Minimum Front Yard	35 ft.
Minimum Side Yard	None, except 50 ft. when adjacent to residential use
Minimum Side Yard adjacent to street (corner lot)	35 ft.
Minimum Rear Yard	None, except 50 ft. when adjacent to residential use
Maximum Building Height	65 ft.

**18.4 OFF-STREET PARKING AND LOADING REQUIREMENTS**

Off-street parking and loading requirements pertaining to uses allowed in the “M” district shall conform to the provisions of Section 27, Off-street Parking and Loading Requirements.

**18.5 MASONRY CONSTRUCTION**

Masonry construction shall consist of a minimum of 65 percent of the total exterior wall surface (exclusive of opening for light, ventilation and access) of principal administrative structures, to be of brick, stone or combination thereof, or of an equivalent masonry material as approved by the City Council.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 19 “PD” Planned Development District**

**19.1 PURPOSE**

The purpose of the “PD” Planned Development District is to encourage creative development of the land, provide locations for well-planned comprehensive developments, and provide for variety and flexibility in the development patterns of the City which promote the health, safety, morals, and general welfare of the community. A Planned Development may include a combination of different dwelling types and/or a variety of residential and nonresidential land uses which creatively complement each other and harmonize with existing and proposed land uses in the vicinity.

**19.2 PLANNED DEVELOPMENT USES**

In a Planned Development District, no building or land shall be used, and no building constructed, reconstructed, altered, or enlarged, unless otherwise provided in an approved Planned Development.

19.3 CONDITIONS FOR PLANNED DEVELOPMENTS

Planned Developments shall be considered appropriate where the following conditions prevail:

- A. The project is consistent with the Comprehensive Land Use Plan and the goals and objectives of the City,
- B. Dwelling units are situated in such a way that an appreciable amount of open space is available and is integrated throughout the planned development,
- C. The project utilizes an innovative approach in lot configuration and mixture of residential and commercial type land uses,
- D. Higher densities than conventional single-family projects of the same acreage are able to provide, with increased open space and appropriate buffering between existing conventional single-family developments,
- E. Nonresidential uses are situated such that an appreciable amount of land is available for open space or joint use as parking and public access space and is integrated throughout the planned development,
- F. Aesthetic amenities may be provided in the planned development design which are not economically feasible to provide in conventional residential and nonresidential projects, and
- G. The project provides a compatible transition, which may include buffer yards, thoroughfares, or transitional uses, between adjacent existing single-family residential projects and provides a compatible transition for the extension of future single-family projects into adjacent undeveloped areas.

19.4 DENSITY, AREA, AND HEIGHT REGULATIONS

In approving a Planned Development or a use designation in a Planned Development, the City Council shall specify density, area, height, screening, parking, landscaping, and other development criteria as may be required in Section 19.9, Development Plan Requirements. Such standards shall be indicated on the Development Plan and shall be made a part of the ordinance. No property located in a Planned Development shall be modified as to density, area, height, screening, parking, landscaping or other development criteria unless a Development Plan containing such revised development criteria is approved.

19.5 OWNERSHIP

An application for approval of a use designation, Development Plan or Site Plan in the Planned Development may be filed by a person having a legal interest in the property. The application shall be filed in the name(s) of the record owner(s) of the site, which shall be included in the application. The applicant shall provide evidence, in a form satisfactory to the City attorney, prior to final approval, that the applicant has the authority to file the application on behalf of all owners of the site.

### 19.6 DEVELOPMENT SCHEDULE

An application for a use designation for new construction or construction that increases the floor area of the principal structure(s) shall be accompanied by a development schedule indicating the approximate date on which construction is expected to begin and the rate of anticipated development to completion. The development schedule, if adopted and approved by the City Council shall become part of the Planned Development Ordinance and shall be adhered to by the owner, developer, and their assigns or successors in interest.

### 19.7 REPORT

The City shall require the owner/developer of the Planned Development to submit a written report on a basis as determined by the City. Said written report shall describe the progress achieved towards the development schedule. In the event that the owner/developer neglects to provide a written report, as established and agreed to in the Planned Development ordinance, or if the owner/developer neglects to initiate any progress, the City may initiate proceedings to rezone the property to a zoning district deemed appropriate. However, no rezoning effort shall be initiated by the City prior to making an official inquiry of the owner/developer regarding the status of the Planned Development.

### 19.8 PLATTING REQUIREMENTS

No application for a building permit for the construction of a building or structure shall be approved unless the property on which the proposed improvements are planned has been platted. The plat must meet all the requirements of the City of New Fairview, and must have been approved by the City Council and recorded in the official records of Wise County.

### 19.9 DEVELOPMENT PLAN REQUIREMENT

An application for a Planned Development, or approval of a use designation in a Planned Development which will require new construction which increases the floor area of the principal structure(s) or a change in the development criteria applicable to the site shall include and be accompanied by a Development Plan, which shall become a part of the amending ordinance. The Development Plan shall include the following information:

- A. A scale drawing showing any proposed public or private streets and alleys; building sites or building lots; any areas proposed for dedication or reserved as parks, parkways, playgrounds, utility and garbage easements, school sites, street widening, street changes; the points of ingress and egress from existing public streets on an accurate survey of the boundary of tract and topography with a contour interval of not less than five feet, or spot grades where the relief is limited.
- B. Where multiple types of commercial land uses are proposed, a land use plan delineating the specific areas to be devoted to various commercial uses shall be required.
- C. A plan indicating the arrangement and provision of off-street parking and off-street loading where required. Such a plan may be presented as a ratio of off-street parking and off-street loading area to building area when accompanied by a typical example

indicating the feasibility of the arrangement proposed and when the areas where the example would be applied are dimensioned on the drawing of the entire site. Any special traffic regulation facilities proposed or required to assure the safe function of the circulation plan shall also be shown.

- D. A designation of the maximum building coverage of the site shall be indicated upon the Development Plan. General footprint of buildings shall be indicated showing the approximate position and sizes of any proposed structures.
- E. Landscaping and screening shall be provided as required in Section 29, Landscape Regulations and shall be indicated on the Development Plan.
- F. Any or all of the required features may be incorporated on a single drawing if such drawing is clear and capable of evaluation by the administrative official and interpretation by the Building Inspector.

Any amendment to a Development Plan must be approved by ordinance following public notice and a public hearing meeting the requirements of Section 39.3, Procedure.

#### 19.10 SITE PLAN REQUIREMENT

Prior to issuance of a building permit, for new construction or construction which increases the floor area of the principal structure(s) or construction that changes the development criteria for the site, a Site Plan in accordance with Section 20, Site Plan Requirements will be required. The Site Plan shall be presented for approval to the City Council. The Site Plan may be submitted concurrently with the Development Plan. If the Development Plan and the Site Plan are submitted separately, a separate public hearing and action shall be required for both submittals.

#### 19.11 COMBINED AND ABBREVIATED DEVELOPMENT AND SITE PLAN SUBMITTAL

If application is made for a new use designation in a Planned Use Development on a site which contains existing improvements which are not proposed to be enlarged, the following combined and abbreviated Development and Site Plan shall be permitted in place of a Development Plan. A combined and abbreviated Development and Site Plan shall contain the following:

- A. A scale drawing showing existing building and proposed use designations, easements, points of ingress and egress from existing public streets, the arrangement and provision of off-street parking and off-street loading, and the location of landscaping and screening provided on site. These items shall be shown on an accurate survey of the boundary of the lot. All of the required features may be incorporated on a single drawing if such drawing is clear and capable of evaluation by the administrative official and interpretation by the building inspector.
- B. Combined and abbreviated Development and Site Plan must be approved by ordinance following public notice and a public hearing meeting the requirements of Section 39.3, Procedure.

**19.12 ADMINISTRATIVE APPROVAL OF DEVELOPMENT PLAN AND SITE PLAN**

A Development Plan and Site Plan may be approved by the administrative official without the approval of the City Council if said application is located within an existing structure and does not increase the floor area of the existing structure and does not change the existing use on the site. The administrative official may, for any reason, elect to present the Development Plan or Site Plan to the City Council for approval.

(Ordinance 2010-01-149 adopted 1/19/10)

**Article 4. Supplementary Regulations**

**Section 20 Site Plan Requirements**

**20.1 GENERALLY**

Whenever a site plan is required by this ordinance, such site plan must conform to the requirements of this section. Unless otherwise specified in this ordinance, all site plans must be approved by the City Council. The site plan submitted in support of an application shall satisfy the requirements for site plan submittals as set forth by the City staff. Site plans shall be reviewed by the City staff, and comments shall be returned within five working days after the review by the City staff. In no event shall the review process exceed 15 working days after submittal. The submittal date of the site plan shall be the date upon which the site plan is found to be in compliance with the provisions of the site plan application by the City staff.

**20.2 REQUIRED PRIOR TO BUILDING PERMIT**

When required by this ordinance, a site plan must be approved prior to the issuance of a building permit by the City.

**20.3 CHANGES TO THE SITE PLAN**

Changes to the site plan shall be processed in the same manner as the original approved site plan.

- A. Except as otherwise provided in paragraph C below, any site plan that is amended shall require approval of the City Council.
- B. Changes to the site plan which will affect the use of the land may require either an amendment to a Planned Development or a rezoning of property, whichever applies.
- C. Changes of details within a site plan which do not alter the basic physical relationship of the property to adjacent properties; do not alter the use permitted; and do not increase the density, floor area, height, or reduce the yards provided at the boundary of the site as indicated on the approved site plan, may be authorized by the administrative official or his/her designee. An aggrieved party may appeal the decision of the administrative official or his/her designee to the Zoning Board of Adjustment in accordance with the provisions of this ordinance.

20.4 COUNCIL APPROVAL

Council approval of a site plan that accompanies a zoning change request shall become part of the amending ordinance.

20.5 SITE PLAN CONTENT

The site plan shall contain the information listed below, and any or all of the required features may be incorporated on a single drawing if the drawing is clear and capable of evaluation by the City Council and the staff personnel required to enforce and interpret this ordinance.

- A. The boundary lines and dimensions of the property, existing subdivision lots, available utilities, easements, roadways, sidewalks, emergency access easements, and public rights-of-way.
- B. Topography of the property proposed for development in contours of not less than two feet, together with any proposed grade elevations, if different from existing elevations.
- C. Floodplains, watercourses, marshes, drainage areas, and other significant environmental features including, but not limited to, rock outcroppings and major tree groupings. Topographic and drainage map information provisions may be waived by the reviewing body when the inclusion of such data would not materially contribute to the necessary evaluation of the project petition.
- D. The location and use of all existing and proposed buildings or structures, including all refuse storage areas, and the minimum distance between buildings. Where building complexes are proposed, the location of each building and the minimum distances between buildings, and between buildings and the property line, street line, and/or alley.
- E. Total number, location, and arrangement of off-street parking and loading spaces, where required.
- F. All points of vehicular ingress, egress, and circulation within the property and all special traffic regulation facilities proposed or required to assure the safe function of the circulation plan.
- G. Setbacks, lot coverage, and when relevant, the relationship of the setbacks provided and the height of any existing or proposed building or structure.
- H. The location, size, and arrangement of all outdoor signs, exterior auditory speakers, and lighting.
- I. The type, location, and quantity of all plant material used for landscaping, and the type, location, and height of fences or screening and the plantings around them.
- J. If multiple types of land uses are proposed, a delineation of the specific areas to be devoted to various land uses.

- K. Vicinity map, north point, scale, name of development, name of owner, name of planner, total acreage of project, and street address or common description of the property.
- L. Current land uses and zoning district of the property and current land uses and zoning districts of contiguous properties.
- M. Buildings on the exterior of the site and within twenty-five feet of all property lines.
- N. The location and size of existing and proposed surface and subsurface drainage facilities, including culverts, drains, and detention ponds, showing size and direction of flow.
- O. The number of square feet of the property after construction which will constitute impervious area or impervious surface and vegetated areas.
- P. Architectural drawings, such as elevations, concept sketches or renderings depicting building types and other significant proposed improvements including the treatment and use of open spaces, etc., where the submission of such drawings would more clearly portray the nature and character of the applicant's land use and development proposals.
- Q. Legal description of the total site area proposed for rezoning, development or specific use permit.
- R. Signature, title and date of the applicant, at the conclusion of the written documents certifying the information presented in the plans, and supporting documents reflect a reasonably accurate portrayal of the general nature and character of the applicant's proposals.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 21      Specific Use Permits**

**21.1 PURPOSE**

Certain land uses, because of their nature and location, are not appropriate for categorizing into installations, such as colleges and universities, institutions, community facilities, zoos, cemeteries, country clubs, show grounds, drive-in theaters and other unusual land uses not specifically provided for in this chapter. To provide for the proper handling and location of such specific uses, provision is made for amending this chapter to grant a permit for a specific use in a specific location. This procedure for approval of a specific use permit includes a public hearing. The amending ordinance may provide for certain restrictions and standards for operation. The indication that it is possible to grant a specific use permit as noted elsewhere in this ordinance does not constitute a grant of privilege for such use, nor is there any obligation to approve a specific use permit unless it is the finding of the City Council that such a special use is compatible with adjacent property use and consistent with the character of the neighborhood.

21.2 PERMIT REQUIRED

No special use shall be erected, used, altered, occupied nor shall any person convert any land, building or structure to such a use unless a specific use permit has been issued by the City Council. The granting of a specific use permit shall be done in accordance with the provisions for amendment of this zoning ordinance.

21.3 APPLICATION PROCEDURE

An application for a special permit shall be filed with the administrative official on a form prepared by the City. The application shall be accompanied by the following:

- A. A completed application form signed by the property owner;
- B. An application fee as established by the City’s latest adopted schedule of fees;
- C. A certificate stating that all City and school taxes have been paid to date;
- D. A property description of the area where the specific use permit is proposed to apply;
- E. A site plan complying with the requirements stated in this section which will become a part of the specific use permit, if approved; and
- F. Any other material and/or information as may be required by the City Council or the administrative official to fulfill the purpose of this subsection and to ensure that the application is in compliance with the ordinances of the City.

21.4 SITE PLAN INFORMATION

A site plan shall contain, at a minimum the following information, as provided in Section 20, Site Plan Requirements: [sic]

21.5 ADDITIONAL INFORMATION

The following additional information may also be required if deemed appropriate by staff or the City Council.

- A. Copies of studies or analyses upon which have been based projections for need or demand for the proposed facility.
- B. Description of the present use, assessed value and actual value of the land affected by the proposed facility.
- C. Description of the proposed use, anticipated assessed value and supporting documentation.
- D. A description of any long-term plans or master plan for the future use or development of the property.
- E. A description of the applicant’s ability to obtain needed easements to serve the proposed use.



- F. A description of any special construction requirements that may be necessary for any construction or development on the subject property.
- G. A traffic impact analysis prepared by a qualified professional in the field of traffic evaluation and forecasting may be required.

21.6 ADMINISTRATIVE RELIEF OF REQUIREMENTS

The applicant may be granted relief from the site plan requirements upon showing justification that such requirements are not applicable or do not provide substantive information that impacts the project or surrounding land uses. Such relief may be granted administratively by the City staff upon their discretion and may submit the requirement to receive relief to the Planning and Zoning Commission if deemed appropriate by the City staff.

21.7 CONDITIONS OF PERMIT APPROVAL

A specific use permit shall not be recommended for approval by the City Council unless the Council finds that all of the following conditions have been found to exist:

- A. The proposed use complies with all the requirements of the zoning district in which the property is located.
- B. The proposed use as located and configured will contribute to or promote the general welfare and convenience of the City.
- C. The benefits that the City gains from the proposed use outweigh the loss of or damage to any homes, business, natural resources, agricultural lands, historical or cultural landmarks or sites, wildlife habitats, parks, or natural, scenic, or historical features of significance, and outweigh the personal and economic cost of any disruption to the lives, business and property of individuals affected by the proposed use.
- D. Adequate utilities, road access, drainage and other necessary supporting facilities have been or shall be provided.
- E. The design, location and arrangement of all public and private streets, driveways, parking spaces, entrances and exits shall provide for a safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments.
- F. The issuance of the specific use permit does not impede the normal and orderly development and improvement of neighboring vacant property.
- G. The location, nature and height of buildings, structures, walls and fences are not out of scale with the neighborhood.
- H. The proposed use will be compatible with and not injurious to the use and enjoyment of neighboring property, nor significantly diminish or impair property values within the vicinity.

- I. Adequate nuisance prevention measures have been or shall be taken to prevent or control offensive odors, fumes, dust, noise, vibration and visual blight.
- J. Sufficient on-site lighting is provided for adequate safety of patrons, employees and property, and such lighting is adequately shielded or directed so as not to disturb or adversely effect neighboring properties.
- K. There is sufficient landscaping and screening to ensure harmony and compatibility with adjacent properties.
- L. The proposed operation is consistent with the applicant's submitted plans, master plans, projections, or, where inconsistencies exist, the benefits to the community outweigh the costs.
- M. The proposed use is in accordance with the City of New Fairview Comprehensive Land Use Plan.

21.8 ADDITIONAL CONDITIONS

In authorizing a Specific Use Permit, the City Council may impose additional reasonable conditions necessary to protect the public interest and the welfare of the community.

21.9 TIME LIMIT

A Specific Use Permit issued under this division shall become null and void unless construction or use is substantially underway within one year of the granting of the permit, unless an extension of time is approved the City Council.

21.10 REVOCATION OF PERMIT

A Specific Use Permit may be revoked or modified, after notice and hearing, for either of the following reasons:

- A. The permit was obtained or extended by fraud or deception.
- B. One or more of the conditions imposed by the permit has not been met or has been violated.

21.11 AMENDMENTS TO SPECIFIC USE PERMIT

The procedure for amending a Specific Use Permit shall be the same as for a new application, provided the administrative official may approve minor variations from the original permit which do not increase density, change traffic patterns, or result in an increase in external impacts on adjacent properties or neighborhoods.

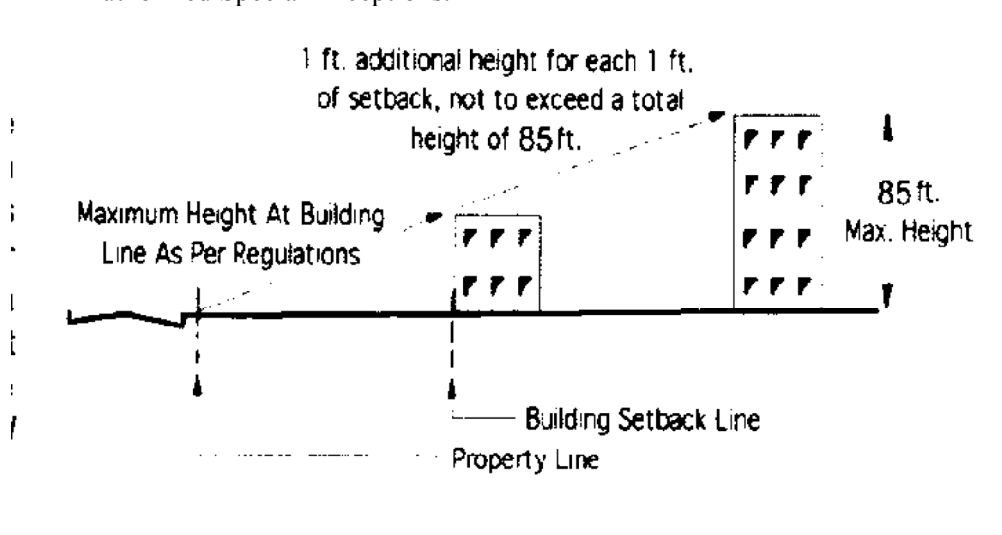
(Ordinance 2010-01-149 adopted 1/19/10)

**Section 22 General Height Requirements**

**22.1 NONRESIDENTIAL STRUCTURES**

A nonresidential building and structure located in any zoning district and may exceed the permitted height in a zoning district if the following conditions are met:

- A. A Site Plan is provided; and
- B. For every one foot exceeding the maximum permitted height, an additional one foot of setback is provided on the front, side, and rear yards. The maximum height of a building shall not exceed 85 feet without a special exception. See Section 36.7, Authorized Special Exceptions.



**22.2 EXCEPTIONS**

Height regulations do not apply to steeples, domes, cupolas, or other architectural design elements usually required to be placed above the roof level and not intended for human occupancy.

**22.3 ANTENNAS**

For antenna and tower height regulations see Section 30, Wireless Communications Facilities.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 23 General Yard Requirements**

The following general requirements provide additional criteria which apply to yard requirements in all zoning districts.

**23.1 PROJECTIONS OF STRUCTURAL FEATURES**

- A. Ordinary sills, belt courses, cornices, chimneys, bay windows, buttresses and ornamental features may project not more than twelve inches into a required yard; and

B. Eaves may project not more than 36 inches into a required yard.

23.2 CARPORTS

A porte-cochere, carport or canopy may project into a required side yard, provided every part of such porte-cochere, carport or canopy is unenclosed except for necessary structural supports.

23.3 GASOLINE FACILITIES

Gasoline filling station pumps and pump islands may be located or project into a required yard provided they are not less than 15 feet distant from any street, highway or alley right-of-way line, and not less than 50 feet distant from any residential property line.

23.4 DOUBLE FRONTAGE LOTS

Where lots have double frontage, running through from one street to another, a required front yard shall be provided on both streets unless otherwise established by plat or by ordinance, in which case only one required front yard need be provided.

23.5 SHARED YARDS PROHIBITED

No part of a yard or other open space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

23.6 CORNER LOTS

For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated in the appropriate zoning district area regulations.

23.7 TWO OR MORE ZONING DISTRICTS

Where the frontage on one side of the street between two intersecting streets is divided by two or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage from one intersecting street to the other.

23.8 ESTABLISHED BUILDING LINE

Where a building line has been established by plat or previous ordinance, and the line requires a front yard setback greater or lesser in depth than is prescribed by this ordinance for the district in which the building line is located, the required front yard shall comply with the building line established by the previous ordinance or plat.

23.9 MEASUREMENT

The front yard shall be measured from the property line to the front face of the building, covered porch, covered terrace, or attached accessory building. Eave and roof extensions may project into the required front yard for a distance not to exceed twenty-four inches.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 24      Accessory Buildings**

**24.1 GENERAL PURPOSE AND DESCRIPTION**

An accessory building is a subordinate building detached from the main building, without sleeping areas or kitchen facilities not used for commercial purposes, not rented, and not occupied for human habitation, except as otherwise allowed by City ordinance. No accessory building shall be constructed until a main building exists on the lot.

**24.2 ACCESSORY BUILDING REGULATIONS**

The following regulations shall govern the location, size and use of any accessory buildings, except for barns and farm buildings used for agricultural uses as defined in [Section 43.2]:

- A. Maximum height: A single story with a maximum height of 12 feet measured from the average grade at a point three feet out from the slab to the lowest point of overhang on the roof.
- B. No accessory building shall be erected in any required yard area, except for residential garages and carports as allowed in paragraphs C, D, and E below.
- C. No accessory building shall be erected within ten feet of any other building, except detached residential garages may be located within five feet of the main dwelling; and the provisions of paragraph E below are met.
- D. No detached residential garage or carport shall be erected or placed closer to any street than the minimum yard requirements (building setback line) governing the district in which such garage or carport is located.
- E. No detached residential garage or carport shall be erected or placed within eight feet from any side lot line, nor in a dedicated easement.
- F. Portable or storage buildings shall be not larger than 320 square feet of floor area, and a maximum height of 12 feet, and shall be metal, wood, stone, or masonry constructed; but shall not be of a metal commercial “kit” construction. A portable building less than 168 square feet may be of metal commercial “kit” construction and must be properly secured to prevent overturning with a method acceptable to the building official. No building may be located closer than five feet from any side or rear property line, no closer than five feet from a principal building, nor in a dedicated easement.
- G. No accessory building shall be used for dwelling purposes other than by domestic servants employed on the premises, as stipulated in Section 11.2, Permitted Use Table.
- H. Residential greenhouses for domestic use shall conform with the requirements of paragraph 5 [sic] of this subsection; however, such greenhouses shall not exceed a total aggregate floor area of 500 square feet.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 25 Home Occupations**

The purpose of the home occupation provisions is to permit the conduct of home occupations which are compatible with the neighborhoods in which they are located.

25.1 REGULATIONS

Home occupations are a permitted accessory use in all residential districts and are subject to the requirements of the district in which the use is located, in addition to the following:

- A. Only the members of the immediate family occupying the dwelling shall be engaged in the home occupations.
- B. The home occupation shall be conducted only within the enclosed area of the dwelling unit or the garage.
- C. There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation.
- D. No storage or display of materials, goods, supplies, or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
- E. No use shall create smoke, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
- F. The home occupation shall not create any greater vehicular traffic than normal for the district.
- G. No signs of any kind shall be allowed on premises advertising a home occupation or service.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 26 Temporary Uses and Special Events**

26.1 GENERALLY

Certain temporary uses of land are essential to the full development and utilization of the land and are deemed to promote the health, safety, and general welfare of the City. The temporary uses and special events hereinafter enumerated shall not be deemed violations of this ordinance when conducted under the conditions herein provided.

## 26.2 PERMITTED TEMPORARY USES

The permitted temporary uses, the conditions of use, the zoning districts wherein the same shall be permitted, and approvals required are as follows:

- A. Construction Office. Temporary field or construction offices and temporary building material storage areas to be used solely for on-premise construction purposes in connection with the property on which they are erected, or within the same platted subdivision may be permitted in all zoning districts when approved by the administrative official. The application for a temporary use permit shall include a scale drawing showing the location and size of the building(s), all outside storage areas, and proposed construction fencing. Such permit shall be issued for temporary buildings on construction sites for a period of six (6) months, with a renewal clause for a similar period. Such buildings must be removed within 30 days after substantial completion or abandonment of such new construction to which they are accessory, or upon the request of the administrative official or his/her designee.
- B. Temporary Construction Dwelling. An accessory building may be used as a temporary dwelling while the main/principal dwelling is being constructed. The time period for which the accessory building is used as a temporary dwelling shall not exceed six months. This period may be extended by an additional six months upon approval by the City Council upon recommendation by the Planning and Zoning Commission.
- C. Temporary outdoor sales on properties zoned “C” and “M” by the existing occupants of existing businesses of such properties, may be permitted by the City enforcement officer for a period not to exceed 30 days upon the application and granting of a temporary use permit.
  - a. In no event shall such temporary uses be allowed for more than 30 consecutive days or more than once per year. All sales shall meet the special conditions, if any, imposed by the City enforcement officer and/or fire marshal for the protection of public interest and the welfare of the community.
  - b. No tent or similar structure shall be erected in any required setback or designated easement. Tents shall conform to the Uniform Fire Code and no tent shall be erected without first obtaining a permit. No outside use of property for sales will be allowed except by the existing occupants of the property. This includes parking of vehicles for a purpose other than conducting business on the premises.
  - c. The temporary outdoor sale of Christmas trees may be permitted on those properties zoned “C” and “M” for a period of 40 days prior to Christmas Day. The administrative official may issue a permit for such sale when it is found that there is available adequate off-street parking area, either improved or unimproved, as determined by the building official; and that location and layout of drives, parking areas, lighting, and sale signs will not constitute a hazard to public travel on the abutting public streets. Trees, stands, equipment, trash, signs, lighting and shelters shall be removed by the permit holder no later than January 4 following the Christmas holiday.

- d. Carnivals and circuses may be allowed as a temporary use for a period not exceeding fourteen consecutive days. Such events shall be on a site in the “C” and “M” zoning districts. Adequate parking and sanitary facilities shall be made available to the satisfaction of the building official. No carnival or circus shall begin operation before 8:00 A.M. and operation shall cease before 11:00 P.M. on all nights except on Saturday when the event shall cease operation at midnight. The administrative official shall establish the terms and conditions for the temporary use at the time of approval. In the event that a sponsor is dissatisfied with the administrative official’s decision, the sponsor may appeal the requested use to the City Council.

**26.3 PERMITTED SPECIAL EVENTS**

For the purpose of this section, “Special Events” are defined as any activity or event meeting the following criteria:

- A. The event of [or] activity is carried on for a period of time not exceeding three consecutive days;
- B. No retail sales are conducted except those incidental to the primary activity such as refreshment and souvenir sales. Charitable and nonprofit organizations may conduct retail sales for fund-raising purposes in any zoning district;
- C. Public assemblies carried on out-of-doors or in temporary shelters or tents.

**26.4 CONTENTS OF APPLICATION**

An application for approval of a temporary use or special event shall include the following information:

- A. Brief description of the event,
- B. Exact location,
- C. Expected attendance,
- D. Anticipated number of automobiles and proposed methods of providing parking for the same,
- E. Location and construction of any temporary signs to be used in connection with the event,
- F. Exact dates of commencement and termination of the event,
- G. Signed certification by the responsible party and the record owner of the land that all information provided is true and correct and that all schedules will be strictly adhered to.
- H. A fee in accordance with the City of New Fairview fee schedule.



**26.5 APPROVAL BY THE CITY COUNCIL**

Approval of a permit for a temporary use or special event must be approved by the City Council.

**Section 27 Off-Street Parking and Loading Requirements**

Whenever any ordinance, regulation, or plan, enacted or adopted by the City Council is for the purpose of providing off-street automobile parking spaces or of establishing requirements that such spaces be provided within any section or sections of the City, then such plan or requirements shall govern within such sections. Otherwise off-street automobile parking spaces shall be provided as follows, applicable to buildings hereafter erected and uses hereafter established, to such nonconforming uses as may be required to conform to the regulations hereof, and to extensions and enlargements of buildings and uses.

**27.1 PARKING TABLE**

Except as otherwise provided in this section, off-street parking spaces shall be provided as follows:

**Schedule of Parking Requirements**

<b>Land Use</b>	<b>Requirements</b>	<b>Additional Requirements</b>
<b>Residential</b>		
Single-Family Detached Units	2/unit	
Duplex	2/unit	None
Townhouse, Condominium, Duplex, Triplex, Quadruplex or Row	3/unit	None
Multi-Family	1.5/1 bed unit 2/2 bed unit 2.5/3 bed unit	None
HUD Code Manufactured Home	2/unit	None
Boarding or Rooming House, Hotel or Motel/Residence Motel or Inn	1/residential unit	1 additional space for 200 sq. ft. of Exhibit or Ballroom space, plus 1 space per 100 sq. ft. of Meeting Rooms, plus 1 space per 2.5 seats in Restaurant and Lounge
Retirement Housing: Ambulatory Independent Residents	1.5/unit	None
Retirement Housing: Nursing Home Facilities	1/2 beds	None
Dormitory	1.5/2 occupants for designed occupancy	None
Fraternity, Sorority, or Lodge	1/125 sq. ft.	None

Land Use	Requirements	Additional Requirements
<b>Institutional</b>		
Community Center	1/4 persons	None
Schools:		
Elementary	1/25 students	None
Junior High	1/18 students	
Senior High	1/5 students	
Trade	1/4 students	
Public Assembly Hall	1/3 seats	None
College or University	1/4 day students	None
Church	1/3 seats in the sanctuary or auditorium	None
Day Care or Day Nursery	1/5 pupils	None
Hospital	1.5/bed	None
Mortuary or Funeral Home	1/4 seats in chapel	None
<b>Recreational</b>		
Theater	1/4 seats	None
Bowling Alley	4/lane	None
Pool Hall, Arcade, Other Indoor Commercial Amusement	1/100 sq. ft. of floor area	None
Outdoor Commercial Amusement	1/500 sq. ft. of site area exclusive of building	None
Ballpark or Stadium	1/4 seats	None
Lodge or Fraternal Organization	1/125 sq. ft. of floor area	None
Driving Range	1/10 linear ft. of designated tee area	None
Miniature Golf	1/tee	None
Personal Service Shop	1/250 sq. ft. of floor area up to 5000 sq. ft., then 1/200 sq. ft.	None
Indoor Retail Store or Shop	1/250 sq. ft. of floor area up to 5000 sq. ft., then 1/200 sq. ft.	None
Outdoor Retail Sales	1/500 sq. ft. of site area, exclusive of building	None
Furniture, Appliance Sales or Repair	1/600 sq. ft. of floor area	None
Coin- Operated or Self- Service Laundry or Dry Cleaner	1/200 sq. ft. of floor area	None
Shopping Center, Malls & Multi-occupancy uses (3-50 acres)	1/250 sq. ft. of floor area	None
Shopping Centers, Mall and Multi-occupancy use (over 50 acres)	1/300 sq. ft. of floor area	None
Eating or Drinking Establishment (no drive-through service)	1/2.5 seats	None
Eating or Drinking Establishment (with drive-through service and all others)	1/150 sq. ft.	None

Land Use	Requirements	Additional Requirements
<b>Business Services</b>		
Bank and Savings & Loan or Other Similar Institution	1/300 sq. ft. of floor area	None
Medical, Dental Clinic or Office	1/150 sq. ft. of floor area	None
Veterinary Clinic	1/300 sq. ft. of floor area	None
Other Office or Professional Business	1/250 sq. ft. of floor area	None
<b>Automotive &amp; Equipment</b>		
Service Station	Minimum of 6	None
Auto Repair Garage or Shop	1/350 sq. ft. of floor area	None
Auto Repair Accessory Sales	1/300 sq. ft. of floor area	None
Vehicle or Machinery Sales (indoors)	1/500 sq. ft. of floor area	None
Car Wash (full-serve)	3 stacking spaces/Wash Bay	None
Car Wash (self-serve or automatic)	3 stacking spaces/wash bay	None
Brick or Lumber Yard	1/3 employees or 1/1,000 sq. ft. of floor area (whichever results in more spaces)	
Manufacturing or Warehousing	1/3 employees or 1/1,000 sq. ft. of floor area (whichever results in more spaces)	
Outside Storage	1/5,000 sq. ft. of floor area	None
Mini-warehouse	1/3,000 sq. ft. of floor area	None

**27.2 OFF-STREET LOADING REQUIREMENTS**

A. In the following cases all retail, office and service buildings shall provide and maintain off-street facilities for the loading and unloading of merchandise and goods within the building or on the lot adjacent to a public alley or private service drive to facilitate the movement of traffic on the public streets:

- a. When deliveries are made by truck more than once a day between the hours of 8:00 a.m. and 6:00 p.m.
- b. When the time of loading and unloading materials or goods exceeds ten (10) minutes between those hours

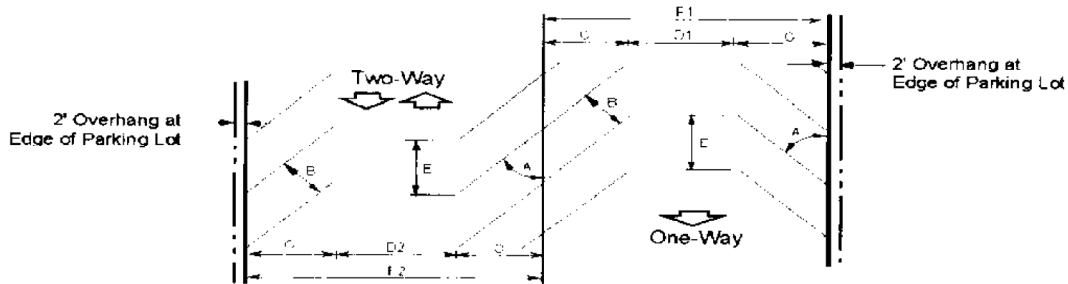
B. Individual loading space dimensions shall be required as a minimum to be thirty-five feet (35') in length, twelve feet (12') width with a height clearance of fifteen feet (15').

C. The number of off-street loading spaces shall be placed according to the following table:

Square Feet of Gross Floor Area in Structure	Maximum Required Spaces or Berths
0 to 10,000	None
10,000 to 50,000	1
50,000 to 100,000	2
100,000 to 200,000	3
Each additional 200,000	1 Additional

D. Mixed Use Buildings: Where a building or a site contains two (2) or more uses, the off-street parking requirement shall be computed as the sum of the required off-street parking spaces for each individual use with the exception of shopping centers and multi-use purposes.

E. Drive Lane Widths and Parking Space Sizes: Drive lanes and parking space sizes shall be required as shown in the following illustration. A driveway for access to any nonresidential, single parking space or to a parking lot shall not measure less than that shown in the parking layout illustration. All drive approach widths shall be no less than those indicated in the below graphic. All two-way drive lanes shall be a minimum of twenty-four (24) feet in width. Parking spaces shall be nine (9) feet wide by eighteen (18) feet deep for all ninety (90) degree parking spaces. Angled spaces shall be as shown in the graphic.



Parking Angle	Stall Width	Stall Depth	Min. Aisle Width		Aisle Length Per Stall	Module Width	
			One-Way	Two-Way		One-Way	Two-Way
(A)	(B)	(C)	(D1)	(D2)	(E)	(F1)	(F2)
Parallel	8.0	8.0	12.0	18.0	22.0	28.0	34.0
45	9.0	19.1	12.0	24.0	12.7	50.2	62.2
60	9.0	20.1	18.0	24.0	10.4	58.2	64.2
90	9.0	18.0	24.0	24.0	9.0	60.0	60.0

F. On-Premise Parking Required: All required commercial and residential parking spaces shall be located on the premises to which such requirement applies or within an off-street space of which the distance is not more than three hundred feet (300') from such premises.

G. Surface: The surface of parking spaces and aisles, truck standing spaces, and access driveways therefor shall be treated, prepared and maintained for adequate drainage and the elimination of dust, dirt, and mud, according to City specifications.

H. Reduction: In cases where the applicant can provide documentation that parking spaces exceed the amount necessary for the use and that a reasonable alteration of spaces may be provided. Said reduction shall not represent more than fifteen percent (15%) of the total required spaces and shall require a special exception from the Zoning Board of Adjustment.

I. Maintenance Requirements: To insure that all requirements set forth in this section are carried forward, it will be the responsibility of the owner of the parking area to maintain the facility. All off-street parking areas shall be kept free of trash, debris, vehicle repair operation or display and advertising uses. At no time after initial approval of the parking area layout can changes be made in the location and number of provided spaces without approval of the City inspector.

### 27.3 RESIDENTIAL OFF-STREET PARKING

- A. **Purpose:** It is recognized that uncontrolled residential off-street parking, specifically in residential front yards, is a public nuisance. The purpose of this subsection is to provide for the regulation of residential off-street parking and to specify the requirements for residential off-street parking as they pertain to the appearance and the health, safety, and welfare of the City.
- B. **Surface:** Driveways may be constructed of concrete, asphalt, or crushed rock. The driveway and parking surface must be clearly delineated from the yard area.
- C. **Restrictions:** It shall be illegal for any person to park or to allow to be parked on any property under his control any automobile, bus, truck, motorcycle, boat or recreational vehicle on any portion of a front yard or side yard of any area which is zoned SF - Single-Family Residential under the Comprehensive Zoning Ordinance or in any Commercial or Industrial Zone Area being used for residential purposes, unless:
- a. Said area is a part of a gravel driveway bordered by concrete curbing or similar permanent border; and
  - b. Said area is a part of a required hard-surface, all-weather driveway that provides access to a garage, carport or off-street parking area required by the Comprehensive Zoning Ordinance; or [sic]
- D. **Drive Width:** A driveway for access to any single parking space or to a parking lot shall not be less than twenty feet (20') in width, nor more than thirty feet (30') in width, at the property line along the street[.]

### 27.4 SPECIAL EVENTS AND OTHER ONE-TIME EVENTS

“Special event” means a festival, celebration, performance or other such special event which occurs no more frequently than once per year, and which will or should be reasonably anticipated to attract patrons or visitors in such numbers as to exceed the capacity of the permanent parking spaces required and provided under other provisions of this section for the property upon which the special event is to be held. Events which are conducted more frequently than once per year are not considered “special events” under the provisions of this subsection and the property upon which these events are conducted must conform to the other provisions of this Article concerning parking requirements.

- A. The persons or entities conducting any such special event shall submit to the administrative official at least forty-five (45) business days prior to said event a plan for the accommodation and parking of vehicles of persons reasonably expected to attend such event. The plan must include, at a minimum, the following information:
- a. A description and the address of the premises where the event is to be held;
  - b. A description and the address of any property, other than the premises described in (a) above, where parking is to be provided for patrons or visitors to the event;

- c. The name and address of the owner of the premises upon which parking for the event is to be provided, and a statement describing the terms and conditions of the agreement whereby the owner of such premises has authorized their use for parking;
  - d. The dates and times that the event is to be held;
  - e. The measures which will be taken by the persons or entities conducting the special event to ensure safe and orderly traffic flow to and from the event site and any parking area;
  - f. A plan or diagram of the proposed layout of the parking scheme upon the property to be used for parking for such event.
- B. All parking for any such special event shall be provided off-street and on an area and surface reasonably anticipated to be dry and safe for vehicular and pedestrian traffic. No public property or rights-of-way may be utilized or included in such parking areas except upon express, prior written permission by the City Council.
- C. Subject to the above requirements, the surface of such parking areas need not be paved or otherwise surfaced as required by the other provisions of this Article for permanent parking areas, but it must be suitable for the type and amount of vehicular and pedestrian traffic reasonably anticipated for the special event at issue.
- D. Upon submittal of the required parking plan to the City, the administrative official shall review it and shall advise the applicants whether any changes or modifications to said plan will be required. The administrative official has the sole discretion to approve or reject, or require modifications to, any parking plan required hereunder. No vehicles may be parked in any location not otherwise allowed under other subsections of this section, in connection with any special event, unless and until the City Council has issued a written approval of the parking plan of the special event.
- E. Such written permission may be revoked at any time by the City Council if it is found that false or misleading information was contained in the proposed parking plan.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 28      Screening**

**28.1 PURPOSE**

Standards set forth in this section are intended to encourage the appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations are prescribed for the location and type of various screening devices to be used when required in the various zoning districts or in this section in accordance with the following standards.

28.2 LOCATION OF REQUIRED SCREENING

A. When a boundary of a nonresidential use sides or backs upon an “SF” Districts, a solid screening wall or fence of not less than six (6) feet nor more than eight (8) feet in height shall be erected on the property line separating these districts. The purpose of the screening wall or fence is to provide a visual barrier between the properties.

B. The owner of such property of the lesser restrictive use shall be responsible for and shall build the required wall or fence on his property line dividing his property from the more restrictive zoning district.

C. Unless otherwise provided for herein, a screening wall or fence required under the provisions of this section shall be constructed of a permanent, solid material. Such wall or fence shall not contain openings constituting more than forty (40) square inches in each one square foot of wall or fence surface, and the surface of such wall or fence shall constitute a visual barrier. The fence or wall may be constructed of a combination of wood, masonry, decorative iron, or a combination thereof.

D. All wall or fence openings shall be equipped with gates compatible in height and screening characteristics to the wall or fence.

E. In cases where City Council finds this requirement to be better met by a screen of living, irrigated plant materials, a landscape plan may be submitted in lieu of a screening wall. Such landscape screening must be no less than four (4) feet deep and must demonstrate screening characteristics equal to that of a masonry screening wall.

F. In cases where City Council finds this requirement better met by a decorative fence or a combination of decorative fence and masonry screening wall and/or living plant materials, the same may be submitted to the City for approval along with a landscape plan.

G. All required screening walls shall be equally finished on both sides of the wall.

H. Required walls or fences shall not be constructed of chain link, barbed wire or other similar materials.

I. All required screening elements shall be permanently maintained by the nonresidential property owner.

28.3 MISCELLANEOUS

Dumpsters and trash receptacles located on non-residentially zoned property and on sites used for nonresidential purposes shall be located on a concrete pad constructed for that purpose. Said dumpsters and trash receptacles shall be screened on three sides by a masonry wall and shall contain a solid self-latching gate. The masonry wall shall be of similar construction as the principal building. Non-decorative concrete block shall not be permitted. A screening device shall be erected along side and rear property lines adjacent to residential districts. The screening device shall be a minimum height of eight (8) feet, unless otherwise approved by City Council.

(Ordinance 2010-01-149 adopted 1/19/10)

## Section 29 Landscaping

### 29.1 PURPOSE

It is the purpose of this section to establish certain regulations pertaining to landscaping within the City. These regulations provide standards and criteria for new landscaping and the retention of existing trees which are intended to:

- A. Promote the value of property, enhance the welfare, and improve the physical appearance of the City;
- B. Is the intent of this section to reduce the negative effects of glare, noise, erosion and sedimentation caused by expanses of impervious and un-vegetated surfaces within the urban environment; and
- C. It is the intent of these landscape regulations to preserve and improve the natural and urban environment by recognizing that the use of landscaping elements and retention of existing trees can contribute to the processes of air purification, oxygen regeneration, groundwater recharge, abatement of noise, glare and heat, provision of habitats for wildlife, and enhance the overall beauty of the City of New Fairview.
- D. These landscape regulations establish requirements in the “C” and “M” zoning districts[.]
- E. Nonresidential uses located within the “A”, “SF”, and “MH” zoning districts, which consist of principal structures, parking areas, and signage, shall be required to comply with the requirements contained in this section.

### 29.2 LANDSCAPING DEFINITIONS

- a. *Buffer Yard.* A buffer yard is a unit of land, together with a specified amount of planting thereon, and any structures which may be required between, land uses to eliminate or minimize conflicts between them.
- b. *Building Footprint.* The area of the building in contact with the ground.
- c. *Caliper.* Diameter of the trunk measured one foot (1') above ground level. Diameter of the trunk measured one foot (1') above ground level. [sic]
- d. *Canopy Trees.* A perennial woody plant [with] single or multiple trunks, contributing to the uppermost spreading branch layer of a forest and may be commonly referred to as shade trees.
- e. *Development.* The changing of the existing topography in order to promote the construction of structures or infrastructure to accommodate any improvements necessary to erect facilities for dwelling or commercial or industrial uses resulting in developed property. The changing of the existing topography in order to promote the construction of structures or infrastructure to accommodate any improvements necessary to erect facilities for dwelling or commercial or industrial uses resulting in developed property. [sic]



- f. Enhanced Pavement. Any permeable or non-permeable decorative pavement material intended for pedestrian or vehicular use. Enhanced pavement includes brick or stone pavers, grass pavers and stamped and stained concrete.
- g. Ground Cover. Low growing, dense spreading plants typically planted from containers.
- h. Interior Lot Area. The area of the lot remaining after subtracting out the area included in the buffer yards.
- i. Landscape Architect. A person registered as a Landscape Architect in the State of Texas pursuant to state law.
- j. Landscape Area. An area covered by natural grass, ground cover, or other natural plant materials.
- k. Lawn Grasses. Thin bladed surface growing plants typically planted from seed, sprigs, or plugs.
- l. Licensed Irrigator. A person duly licensed by the State of Texas to design and install irrigation systems.
- m. Permeable Pavement. A paving material that permits water penetration.
- n. R.O.W. Parkway. That area within the public right-of-way (R.O.W.) between the back of curb or edge of pavement and the right-of-way line.
- o. Seasonal Color. Landscape areas used for annual and perennial flowers intended to maintain year-round color accents.
- p. Shrubs. Plants that grow vertically in a multi-branched growth pattern.
- q. Understory/Accent Trees. Small evergreen or deciduous perennial woody plants, which would grow below the top layer of the forest and typically has unique branching, textural or seasonal color characteristics.

### 29.3 EVENTS CAUSING COMPLIANCE

Land uses not previously subject to landscaping requirements may be required to comply with this section upon the occurrence of one of the following events:

- A. A change in zoning;
- B. Requirement of landscaping as conditions of a Specific Use Permit;
- C. Issuance of a building permit; or
- D. Loss of legal nonconforming status.

29.4 LANDSCAPING GENERALLY

- A. Landscape installation required
  - a. Twenty (20) percent of the total lot shall be required. Landscaping which includes the planting of new and the retention of existing shrubs, trees, and flowering plants, in addition to grass, may reduce the landscape requirement to 10 percent of the total lot area. Landscaping which consists of grass only will require 20 percent of the total area to be landscaped.
  - b. Twenty (20) percent of the total land area in any lot upon which development or construction occurs for any use after the effective date of this ordinance shall be landscaped in accordance with this section.
  - c. Where the construction is to be a single phase of a multi-phase development, only the area being constructed in the current phase need be subject to the landscape regulations. However, each phase will be required to meet the landscaping requirements as they are being developed.
- B. Landscaping Plan Required
- C. The landscape plan may be prepared by the applicant, or his/her designee. The landscape plan is not required to be prepared by a registered or certified professional.
- D. A landscaping plan shall be submitted to the city for approval. The landscape plan may be submitted as a part of the site plan or as a separate submittal. However, a landscape plan meeting the requirements of this ordinance shall be provided and approved prior to the issuance of a building permit.
- E. The landscape plan shall contain the following information:
- F. Drawn to scale; Minimum scale of one inch equal 50 feet;
  - a. Location of all trees to be preserved, method of preservation during the construction phase of development shall be approved by the City Administrator or his/her designee.
  - b. Location of all plants and landscaping material to be used including paving, benches, screens, fountains, statues, or other landscape features;
  - c. Species of all plant material to be used;
  - d. Size of all plant material to be used;
  - e. Spacing of plant material where appropriate;
  - f. Layout and description of irrigation, sprinkler or water system, including placement of water sources;

- g. Description of maintenance provisions of the landscape plan;
- h. Persons responsible for the preparation of the landscape plan.

**29.5 LOCATIONAL CRITERIA**

- A. Not less than 40 percent of the total landscaping shall be located in the designated front yard.
- B. In the “M” zoning district only the front yard 40 percent of the total 20 percent shall be required. The rear and side yard landscape requirements may be waived upon submittal of a landscape plan showing other requirements.
- C. All landscape material shall comply with visibility requirements of the New Fairview Subdivision Regulations.

**29.6 CREDITS TOWARD LANDSCAPING REQUIREMENTS**

- A. Grass is an appropriate landscape material. However, a variety of plan material is recommended. Credits toward the landscaping requirements may be granted in the following manner:
- B. Additional Enhancement Credit may be obtained by providing the following optional landscaping elements.

<b>Landscape Area Credit</b>	
<b>Landscape Element</b>	<b>Amount of Area Credit</b>
For each 3-inch tree	200 sq. ft.
For each 6-inch tree	400 sq. ft.
For each existing 6-inch tree protected and kept	800 sq. ft.
For each one-gallon shrub	10 sq. ft.
For each five-gallon shrub	25 sq. ft.
For each sq. ft. of flowering beds	2.5 sq. ft.
For each sq. ft. of xeriscape area	5 sq. ft.
For each sq. ft. of landscaped R.O.W.	0.5 sq. ft.

- C. In no instance shall the total amount of landscaping on a lot be reduced through credits by more than 50 percent of the landscaped area required by this ordinance.
- D. Xeriscaped area shall be clearly located and detailed on the site plan. In addition, the xeriscape methodology shall be detailed on the site plan.
- E. A flowering bed is any area where the soil has been specifically prepared for the planting of flowering plants. In addition in order to be considered for credit calculations, at least 80 percent of the prepared area must be covered with flowering plant material at the time of peak growth.
- F. Caliper of trees is to be measured at a point 12 inches above top of ground.
- G. In order to receive credit for protecting and keeping existing trees, the area within the dripline of the tree must be protected by fencing during grading and construction.

29.7 INSTALLATION AND MAINTENANCE

- A. All required landscaped area shall be permanently landscaped with living plant material, and shall have an irrigation system installed. Synthetic or artificial lawn or plant material shall not be used to satisfy the landscape requirements of this ordinance.
- B. Landscaped areas shall be kept free of trash, litter, weeds, and other such material or plants not a part of the landscaping.
- C. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Maintenance shall include mowing, watering, trimming, pruning, etc.
- D. Plant materials which die shall be replaced with plant material of similar variety and size within 90 days period, with a one-time extension not exceeding 90 days being provided upon approval of the City Council.

29.8 LANDSCAPING OF PARKING LOTS

It is the intent of these landscape regulations to encourage design and construction of parking areas so that in a manner whereby areas within the parking lot are landscaped as well as areas considered unusable for parking or maneuvering space are landscaped. The following minimum requirements shall be observed:

- A. A minimum of 10 percent of the gross parking area shall be devoted to living plant material. Gross parking area shall be measured from the edge of the parking and/or driveway paving and sidewalks.
- B. Landscaped areas within parking lots shall be located so as to best relieve the expanse of paving.
- C. The placement of additional landscaped islands throughout the parking area in a manner which best relieve large expanses of paved area is encouraged.
- D. Landscape material which is located within the interior of a parking lot shall be surrounded by a curb of four inches in height.
- E. Landscaping within a parking lot shall not create a visibility obstruction. A visibility obstruction within a parking lot is defined as landscaping between 30 inches in height and seven feet in height. No shrubs shall exceed 30 inches in height. Tree canopies shall be at least seven feet in height.
- F. For large existing trees located in the parking area, which is being retained and incorporated into the landscaping plan, an appropriate aeration system or an alternative method of protecting the tree must be provided and detailed in the landscape plan.
- G. For each landscaped island of at least 10 feet by 20 feet located within a parking lot, credit for four parking spaces will be provided. Credit for parking spaces cannot reduce the overall parking requirement by more than 20 percent or to less than ten total spaces.

29.9 LANDSCAPING AS RELATED TO CERTIFICATE OF OCCUPANCY

A. All landscaping shall be completed and installed in accordance with the approved landscape plan within 90 days of a certificate of occupancy being granted. A one-time extension not to exceed 90 days may be granted upon approval of the planning and zoning commission director of community development or his designee.

B. If these landscaping requirements have not been satisfied within the 90 days six month [sic] period from when the certificate of occupancy is issued, the property owner shall be considered in violation of this the zoning ordinance of the City of New Fairview, and shall be subject to the penalties established herein. A one-time extension not to exceed six (6) months may be granted upon approval of the City Council.

29.10 NONCONFORMING LANDSCAPING CONDITIONS

Developments, structures, and uses that are in existence at the time of the adoption of this ordinance, which do not meet the landscape requirements provided herein, will be considered as being legal nonconforming. These nonconforming uses/structures will be subject to Section 33, Nonconforming Uses Lots and Structures of the New Fairview Zoning Ordinance, unless otherwise provided for in this section.

29.11 RELIEF FROM LANDSCAPING REQUIREMENTS

Upon completion of the following, relief from landscaping requirements may be granted in situations where the individual circumstances, such as the presence of existing facilities or unusual topography, limit the applicant’s ability to comply with the landscaping requirements of this ordinance:

- A. The applicant shall provide the City Council with an alternative landscape plan for review and approval.
- B. Said landscape plan will illustrate a plan to landscape area as available, provide for irrigation, and provide a phasing schedule for completing the plan.
- C. The installation of landscaping as indicated by the landscape plan is completed and approved by the City.

29.12 APPROVED AND RECOMMENDED PLANT LIST

Common Name	Scientific Name
<b>Canopy Trees</b>	
Ash, Texas	Fraxinus texensis
Cedar Elm	Ulmus crassifolia
Cedar, Eastern Red	Juniperus virginiana

<b>Common Name</b>	<b>Scientific Name</b>
Cypress, Bald	Taxodium distichum
Elm*, Lace Bark	Ulmus parvifolia
Magnolia, Southern	Magnolia grandiflora
Maple, Bigtooth	Acer grandidentatum
Maple, Caddo	Acer saccharum
Oak, Bur	Quercus macrocarpa
Oak, Chinquapin	Quercus muhlenbergii
Oak, Escarpment Live	Quercus fusiformis
Oak, Lacey	Quercus glaucoides
Oak, Live	Quercus virginiana (Escarpment)
Oak, Post	Quercus stellata
Oak, Red	Quercus shumardi
Oak, Texas Red	Quercus texana
Osage Orange	Maclura pomifera (thornless and fruitless)
Pecan (native)	Carya illinoensis
Pistache*, Chinese	Pistacia chinensis
Soapberry, Western	Sapindus drummondii
Walnut, Black	Juglans nigra
<b>ORNAMENTAL TREES</b>	
Buckeye, Mexican	Unghadia speciosa
Buckeye, Texas	Aesculus glabra var. arguta
Buckthorn, Carolina	Rhamnus caroliniana
Chaste Tree*	Vitex agnus-castus
Crabapple, Prairie	Pyrus ioensis
Crape Myrtle*	Lagerstroemia indica
Eve's Necklace	Sophora affinis
Goldenball Leadtree	Leucaena retusa
Hawthorne*	Crataegus phaenopyrum
Hawthorne*	Crataegus crus-galli
Hawthorne*	Crataegus reverchonii
Holly, Possumhaw	Ilex decidua
Indigo, False	Amorpha fruticosa var. angustifolia
Mountain Laurel, Texas	Sophora secundiflora
Persimmon, Texas	Diospyros texana
Plum, Mexican	Prunus mexicana
Redbud	Cercis canadensis
Smoketree	Cotinus obovatus
Smoketree*	Cotinus caggyria
Sumac, Prairie Flame-leaf	Rhus lanceolata

Common Name	Scientific Name
Viburnum, Rusty Blackhaw	Viburnum rufidulum
Wax Myrtle	Myrica cerifera
Willow, Desert	Chilopsis linearis
Yaupon Holly	Ilex vomitoria
<b>SHRUBS</b>	
Agarita	Berberis trifoliolata
Althea	Hibiscus syriacus
American Beautyberry	Callicarpa americana
Aspidistra	Aspidistra eliator
Barberry, Red	Berberis thunbergii
Barberry, Texas	Berberis thunbergii
Bayberry	Myrica pennsylvanica
Bird of Paradise	Caesalpinia gilliesii
Burning Bush	Euonymus alata compacta
Butterfly Bush	Buddleia sp.
Cactus, Prickly Pear	Opuntia phaeacantha
Cenizo	Leucophyllum frutescens
Chokeberry, Red	Aronia arbutifolia
Coralberry	Symphoricarpos obiculatus
Dogwood, Rough Leaf	Cornus drummondii
Eleagnus	Eleagnus macrophylla
Forsythia	Forsythia sp.
Germander, Upright	Teucrium chamaedrys
Holly, Dazzler	Ilex cornuta 'Dazzler'
Holly, Dwarf Yaupon	Ilex vomitoria
Holly, Nellie R. Stevens	Ilex x 'Nellie R. Stevens'
Honeysuckle, Bush	Lonicera fragrantissima
Hydrangea, Oakleaf	Hydrangea quercifolia
Hypericum, Upright	Hypericum patulum
Jasmine, Italian	Jasmine nudiflorum
Lantana	Lantana horrida
Mahonia, Leatherleaf	Mahonia bealeii
Mimosa, Fragrant	Mimosa borealis
Nandina, Compact	Nandina domestica compacta
Nandina, Gulfstream	N.d. 'Gulfstream'
Nandina, Standard	N. domestica
Pavonia	Pavonia lasiopetala
Photinia, Chinese	Photinia serrulata
Privet, Southern River	Ligustrum vulgare

Common Name	Scientific Name
Privet, Variegated	Ligustrum lucidum ‘Variegata’
Quince, Flowering	Chaenomeles japonica
Sage, Cherry	Salvia greggii
Spiraea, Bridal Wreath	Spiraea sp.
Spiraea, Anthony Waterer	Spiraea x bumalda ‘Goldflame’
Spiraea, Goldflame	Spiraea x bumalda ‘Goldflame’
Spiraea, Little Princess	Spiraea x bumalda ‘Little Princess’
Spiraea, Shirobana	Spiraea japonica ‘Shirobana’
Sumac, Aromatic	Rhus aromatica
Sumac, Evergreen	Rhus virens
Sumac, Smooth	Rhus glabra
Turk’s Cap	Malvaviscus drummondii
Viburnum, Cranberry Bush	Viburnum opulus
Viburnum, Small Leaf	Viburnum obavatum
Viburnum, Snowball	Viburnum opulus
Virginia Sweetspire	Ilea virginica
Wax Myrtle, Dwarf	Myrica pusilla
Yucca, Red	Hesperaloe parviflora

An \* indicates an approved street tree

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 30 Wireless Communication Facilities**

30.1 PURPOSE

Certain radio equipment used in transmitting and receiving signal energy are essential and are deemed to promote the health, safety, and general welfare of the citizens of the City. The placement of such equipment shall be located such that the health, safety, welfare, and aesthetic quality of the community shall not be compromised. Therefore the regulations governing the location of such equipment shall consider the aesthetic quality of the community equal to the health, safety, and general welfare of the community. The antennas, masts, and towers hereinafter enumerated shall not be deemed violations of this ordinance when made under the conditions herein provided.

30.2 DEFINITIONS

See Section 43.3 - Wireless Communications Facilities Definitions.

30.3 RESIDENTIALLY ZONED DISTRICTS - AMATEUR RADIO EQUIPMENT AND TV ANTENNAS

Amateur radio equipment, including ham radio and CB equipment and personal use TV antennas, shall be allowed in the A and SF zoning districts if they comply with the following regulations:

- A. Antenna facilities may be building attached, monopoles, or lattice towers;



- B. Up to 3 antenna facilities may be located on a lot of record, co-location is encouraged;
- C. An antenna facility, with the exception of ham radio, exclusive of the height of any antenna or mast, shall not exceed thirty-five (35) feet in height. Provided, however, that an antenna facility shall be permitted additional height at the ratio of one added foot in height for each additional foot of setback beyond the minimum setback required of an accessory building in the zoning district regulations contained in Section 24, Accessory Buildings. Regardless of the above, the maximum height for a tower permitted without a Special Exception in any residential district shall be 65 feet;
- D. The height of an antenna, including the height of any antenna facility to which they may be fastened or attached shall not exceed 65 feet in height without a Special Exception.
- E. An antenna not fastened to a antenna facility shall not exceed 50 feet without a Special Exception, except for an antenna which does not extend more than eight feet above a building on which it is mounted;
- F. A antenna facility shall be limited to having the number and size of antennas attached to it that are allowed by the antenna facility manufacturer's designs and specifications for maximum wind load requirements;
- G. Setbacks:
  - a. Antennas and antenna facilities shall not be permitted in front or side yards. Guy wires are not permitted in front yards;
  - b. Guy wires are permitted in required side and rear yards;
  - c. Setback for antenna facilities shall be the same as is required for accessory buildings in residential districts;
- H. Separation: There shall be no minimum or maximum separation requirements for antenna facilities from other structures on the same lot of record;
- I. Antenna facilities shall not be permitted in any easement;
- J. Lights: No auxiliary or outdoor lighting shall be allowed on antenna facilities located on residentially zoned property except such lights or lighting as may be required by the Federal Aviation Authority or the Federal Communications Commission;
- K. Construction standards: A building permit must be obtained prior to the construction and/or installation of an antenna facility. Antenna facilities must be installed as per the manufacturer's recommendations or under the seal of a registered professional engineer of the State of Texas. Regardless of the above, all such antenna facilities must meet the Electronic Industries Association Standard EIA-222-D, Structural Standards for Steel Antenna Towers and Antenna Supporting Structures and the Building Code;

- L. **Maintenance:** Antennas and/or antenna facilities obviously not in use or obviously in need of maintenance as determined by the building official, shall be removed or brought into compliance within 30 days following notice given by the building official. This shall not preclude immediate action by the building official to safeguard life, limb, health, property, and public welfare;
- M. No part of an antenna facility or any attachment thereto may extend beyond the property lines of the owner of such antenna or antenna facility;
- N. No permit shall be issued for the installation of an antenna facility on a multi-family structure or property unless a notarized statement of permission from the owner is presented to the building department;
- O. All antenna facilities shall be subject to an inspection every five years by a qualified expert, such inspection to be conducted and charged for by the City in accordance with provisions in the building code;
- P. A Special Exception must be obtained in the residential zoning districts for any antenna facility which does not comply with the regulations specified hereinabove.

#### 30.4 NONRESIDENTIAL DISTRICTS

Radio, television, microwave broadcast relay, receiving towers, transmission and re-transmission facilities, satellite receiving only earth stations (home dish antenna), and any electronic emission equipment of a commercial nature shall be allowed in the nonresidential zoning districts if it complies with the following regulations:

- A. Up to 3 antenna facilities may be located on a lot of record, co-location is encouraged;
- B. Antenna facilities shall be limited to building attached and monopoles only;
- C. An antenna facility, exclusive of the height of any attached antenna, shall not exceed 35 feet in height. Provided, however, that an antenna facility shall be permitted additional height at the ratio of one added foot in height for each additional foot of setback beyond the minimum setback required of a accessory building in the zoning district regulations herein. Regardless of the above, the maximum height for an antenna facility permitted without a Special Exception in any nonresidential district shall be 65 feet;
- D. With the exception of stealth facilities, the height of an antenna, including the height of any antenna facility to which they may be fastened or attached, shall not exceed 65 feet in height without a Special Exception;
- E. With the exception of stealth facilities, an antenna shall not extend more than eight feet above a building on which it is attached;
- F. An antenna facility shall be limited to having the number and size of antennas attached to it that are allowed by the antenna facility manufacturer's designs and specifications for maximum wind load requirements;

- G. Setbacks: With the exception of stealth facilities, antennas and antenna facilities shall not be permitted in front or side yards;
- H. Antenna facilities shall not be permitted in any easement;
- I. Lights: No auxiliary or outdoor lighting shall be allowed on antennas located on residentially zoned property except such lights or lighting as may be required by the Federal Aviation Authority or the Federal Communications Commission;
- J. Construction standards: A building permit must be obtained prior to the construction and/or installation of a tower, antenna, or mast. Antenna facilities must be installed as per the manufacturer's recommendations or under the seal of a registered professional engineer of the State of Texas. Regardless of the above, all such antenna facilities and antennas must meet the Electronic Industries Association Standard EIA-222-D, Structural Standards for Steel Antenna Towers and Antenna Supporting Structures and the Building Code;
- K. Maintenance: Antenna facilities and antennas obviously not in use or obviously in need of maintenance as determined by the building official, shall be removed or brought into compliance within 30 days following notice given by the Building Official. This shall not preclude immediate action by the building official to safeguard life, limb, health, property, and public welfare;
- L. No part of an antenna facility and antennas or any attachment thereto may extend beyond the property lines of the owner of such antenna or antenna facility;
- M. No permit shall be issued for the installation of an antenna or antenna facility on a multi-family structure or property unless a notarized statement of permission from the owner is presented to the building department;
- N. All antennas, or antenna facilities shall be subject to an inspection every five years by a qualified expert, such inspection to be conducted and charged for by the City in accordance with provisions in the Building Code;
- O. A Specific use permit must be obtained in nonresidential zoning districts for any antenna or tower which does not comply with the regulations specified hereinabove.
- P. Stealth facilities, which meet the definition of stealth as provided in Section 43.3, Wireless Communications Facilities Definitions shall be exempt from the height and location requirements of this section. In addition, the City Administrator or his designee shall be the final authority as to whether or not any facility meets the definition of "stealth".

### 30.5 WRITTEN REPORT UPON DENIAL OF REQUEST

The City of New Fairview shall document any denial of a request to place, construct, or modify personal wireless service facilities in writing. Such documentation shall be supported by substantial evidence within the written record.

### 30.6 SATELLITE RECEIVE-ONLY ANTENNAS GENERALLY

Satellite receive-only antennas assist individuals in the receipt of satellite transmitted television signals. Satellite receive-only antennas shall not be deemed violations of this ordinance when made under the conditions herein provided. Such conditions are hereby found to be reasonable and clearly defined health, safety and aesthetic objectives.

### 30.7 SATELLITE RECEIVE-ONLY ANTENNAS

A satellite receive-only antenna shall be allowed if it complies with the following:

- A. The satellite receive-only antenna is two meters or less in diameter and is located or proposed to be located in any area where commercial or industrial uses are generally permitted by non federal land use regulations or;
- B. The satellite receive-only antenna is less than one meter in diameter in any residential zoning district.

### 30.8 LARGE SATELLITE RECEIVE-ONLY ANTENNAS

Satellite receive-only antennas that are greater than one meter in diameter in residential districts or greater than two meters in diameter in nonresidential districts shall be allowed in any zoning district if they comply with the following regulations:

- A. Only one satellite receive-only antenna per lot of record;
- B. A satellite receive-only antenna shall not exceed ten feet in height;
- C. Setbacks:
  - a. Front and side: Satellite receive-only antennas shall not be permitted in front or side yards;
  - b. Rear: Satellite receive-only antennas shall be permitted in rear yards provided they meet the minimum setback as is required for accessory buildings in residential districts and as for all buildings in nonresidential districts;
- D. Separation: There shall be no minimum or maximum separation requirements for satellite receive-only antennas from other structures on the same lot of record;
- E. Satellite receive-only antennas shall not be permitted in easements;
- F. Lights: No auxiliary or outdoor lighting shall be allowed on satellite receive-only antennas except such lights or lighting as may be required by the Federal Aviation Authority or the Federal Communications Commission;
- G. Construction standards: A building permit must be obtained prior to the construction and/or installation of a satellite receive-only antenna. Satellite receive-only antennas must be installed as per the manufacturer's recommendations or under the seal of a registered professional engineer of the State of Texas;

- H. Maintenance: Satellite receive-only antennas obviously not in use or obviously in need of maintenance as determined by the building official, shall be removed or brought into compliance within 30 days following notice given by the building official. This shall not preclude immediate action by the building official to safeguard life, limb, health, property, and public welfare;
- I. No part of a satellite receive-only antenna or any attachment thereto may extend beyond the property lines of the owner of such satellite receive-only antenna;
- J. No permit shall be issued for the installation of a satellite receive-only antenna on a multi-family structure or property unless a notarized statement of permission from the owner is presented to the Building Department;
- K. All satellite receive-only antennas shall be screened from view from adjoining properties by fencing or evergreen plants. A satellite receive-only antenna located within a fence surrounding the yard in which the satellite receive-only antenna is located shall be considered to be screened;
- L. A Special Exception must be obtained for any satellite receive-only antenna which does not comply with the regulations specified hereinabove.

30.9 SPECIAL EXCEPTION

A Special Exception must be obtained for any antenna, tower, and/or satellite receive-only antenna which does not comply with the regulations specified in this section, hereinabove. In considering whether to grant a Special Exception from the regulations specified above, the following shall be considered:

- A. The effect on the value of the surrounding property;
- B. The potential for interference with the enjoyment of the use of surrounding properties;
- C. Aesthetics;
- D. The necessity of the Special Exception for the public health, safety, and welfare of the citizens or for governmental purposes;
- E. The zoning district and the adjoining zoning districts of the property for which the Special Exception is sought;
- F. The provisions of 47 C.F.R. section 25.104 which preempt local zoning or other regulations that differentiate between satellite receive-only antennas and other types of antenna facilities unless such regulations:
  - a. Have a clearly defined health, safety or aesthetic objective; and
  - b. Further the stated health, safety, or aesthetic objective without unnecessarily burdening the federal interest in ensuring access to satellite services and in promoting fair and effective competition among competing communications service providers;

- G. The unique conditions that govern reasonable reception on any given lot;
- H. To properly evaluate all applications to locate commercial antennas or towers which do not comply with the regulations specified hereinabove the following information must be provided by the applicant:
  - a. Describe the nature of the antenna site. Indicate whether the proposed structure is a monopole or mounted to a self-supporting structure. Indicate the proposed height;
  - b. Provide photos or drawings of all equipment, structures and antenna;
  - c. Describe why the antenna or tower is necessary;
  - d. State the name(s) of the telecommunications providers or other users of the antenna or tower and describe the use to be made by each user;
  - e. Indicate if this antenna or tower site is to be connected to other sites; and if so, describe how it will be connected and who will be the backhaul provider;
  - f. The applicant must address whether or not they have made an effort to co-locate the facilities proposed for this antenna or tower on existing towers or facilities in the same general area. Please identify the location of these existing sites. If yes, please describe in detail these efforts and explain in detail why these existing sites were not feasible. Attach all studies or tests performed which demonstrate why the existing sites will not provide sufficient signal coverage. Provide written documentation from existing sites' owners and/or operators which confirm the statements provided. Indicate whether or not the existing sites allow/promote co-location and, if not, describe why not;
  - g. Indicate whether or not co-location will be allowed to other telecommunications providers at the requested site. If they are not allowed, state every reason and the basis for each reason;
  - h. If the requested location is in a residential district the applicant must address whether or not they have made an effort to locate the facility in a commercial or industrial district. Please identify the location of these commercial and/or industrial district sites. Please describe in detail these efforts and explain in detail why these commercial or industrial district sites were not feasible. Attach all studies or tests performed which demonstrate why the commercial or industrial sites will not provide sufficient signal coverage. Provide written documentation from commercial or industrial district sites' owners and/or operators which confirm the statements provided;
  - i. Indicate the proposed provider's current coverage area for the City. Attach maps showing the areas the proposed provider's existing antenna currently cover, the areas the applicant's existing sites and other existing sites would cover, and the areas the applicant's existing sites and the requested site would cover.

- j. Describe the applicant’s master antenna and tower plan for the City. Attach maps and other related documentation. Provide information indicating each phase of the plan.
- k. Describe the applicant’s plan to minimize the number of telecommunications antenna and towers needed to cover the City.
- l. The City Council will approve a requested application subject to the finding that co-location of this facility with a nearby existing tower facility is technically not feasible and subject to the following conditions:
- m. Applicant will permit co-location of others at the site;
- n. Applicant will configure its antenna and other equipment to accommodate other providers;
- o. Applicant will identify its backhaul provider connecting antenna sites; and
- p. Applicant will give notice to the City identifying any providers who co-locates to the site and identify their backhaul provider.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 31 Outdoor Lighting**

**31.1 APPLICABILITY**

All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of this section, the Building Code and the Electrical Code as applicable and under appropriate permit and inspection. These lighting standards shall apply to all nonresidential uses in the City. Unless otherwise stated, this section does not regulate lighting in public road rights-of-way.

**31.2 OUTDOOR LIGHTING PLAN**

An Outdoor Lighting Plan must be submitted separately from any required site plan or landscape plan on all public or private properties, including rights-of-way, public easements, franchises and utility easements for approval by the Administrative Official. An Outdoor Lighting Plan shall be submitted prior to issuing a building permit. Plans shall include the following:

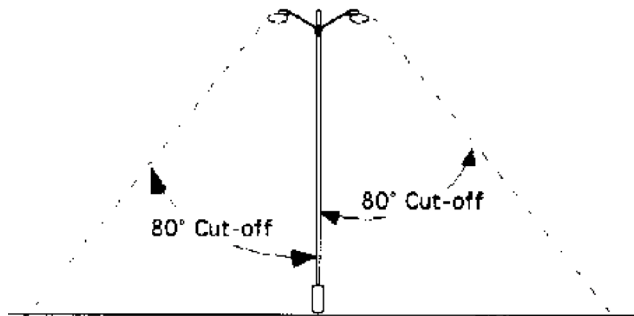
- A. A layout of the proposed fixture locations.
- B. The light source.
- C. The luminous area for each proposed light source with proposed footcandle measurements.
- D. The type and height of the light fixture or light source above grade.
- E. The type of illumination.

**31.3 GENERAL LIGHTING REQUIREMENTS**

A. Unless otherwise provided herein, illumination, where required by this section, shall have intensities and uniformity ratios in accordance with the current recommended practices of the Illuminating Engineering Society of North America (IESNA) as from time to time amended.

B. Unless otherwise provided herein, all building lighting for security or aesthetics will be fully-shielded type, not allowing any upward distribution of light. Wallpack type fixtures are acceptable only if they are fully shielded with 80° cut-off.

C. No use or operation in any district shall be located or conducted so as to produce glare, or either direct or indirect illumination across the bounding property line from a source of illumination into a residentially zoned property, nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property. For the purposes of this section, a nuisance shall be defined as more than one-tenth (0.10) of one footcandle of light measured at the residential property line and twenty-five hundredths (0.25) of one footcandle at any adjoining nonresidential property line.



D. Shielding shall be required in all outdoor lighting installations as specified below.

Lamp type	Shielding
Low Pressure Sodium (LPS)	Fully Shielded, with 80° cut-off
High Pressure Sodium (HPS)	Fully Shielded, with 80° cut-off
Metal Halide	Fully Shielded, with 80° cut-off
Halogen	Fully Shielded, with 80° cut-off
Mercury Vapor	Fully Shielded, with 80° cut-off
Fluorescent	Fully Shielded, with 80° cut-off
Incandescent	Fully Shielded, with 80° cut-off
Any light source 50 watts and under	Unshielded, Permitted
Low intensity Neon, Krypton or Argon Discharge Tubes	Unshielded, Permitted

**31.4 ILLUMINATION**

A. Measurement: Illumination levels of outdoor lighting shall be measured by a qualified professional according to generally accepted IESNA methods.



B. **Computation of Illumination:** Illumination at a point may be computed in lieu of measurement. Computation methods shall consist of a generally accepted IESNA method, using certified photometric data furnished by the fixture manufacturer, lamp manufacturer, photometric laboratory, or other reliable authority satisfactory to the City. Computations shall be based on new, properly seasoned lamps, diffusers and other appurtenances in place, and with proper regard taken for mounting height, relative elevation, natural and man-made objects.

C. **Limitations on Neighboring Property.** The limit of illumination on neighboring property from an establishment shall be by zoning of the neighboring property. Maximum computed or measured footcandles at the neighboring property line shall not exceed:

<b>Measurement: Illumination levels of outdoor lighting shall be measured by a qualified professional</b>	
<b>Land Use Type</b>	<b>Horizontal Footcandles</b>
Single-family districts	0.25
Nonresidential districts	2.25

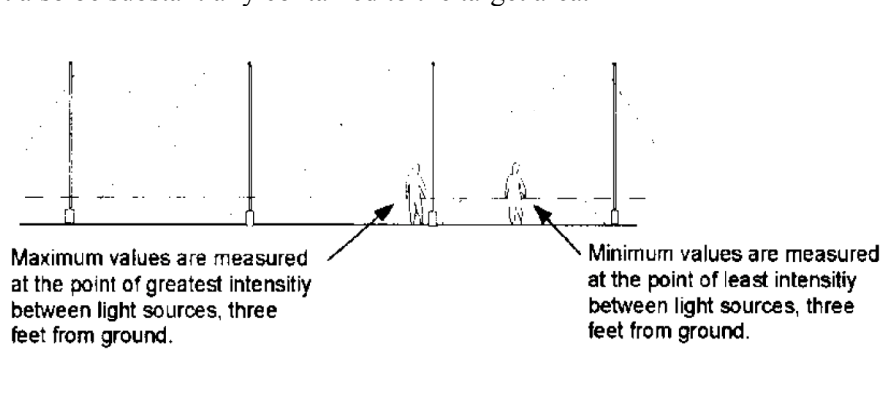
**31.5 NONRESIDENTIAL LIGHTING PARAMETERS**

A. All non-essential lighting shall be turned off after business hours, leaving only necessary lighting for site security in nonresidential districts.

B. Floodlights, accent, aesthetic and security lights must be fully shielded and no uplighting shall be permitted except that lighting of 75 watts or less are excepted if necessary for security purposes.

C. Parking lots and vehicle movement areas shall not exceed a maximum illumination value of 10 footcandles nor have a minimum illumination value of less than 1.0 footcandles. Lamps in decorative lantern type fixtures shall not exceed a maximum of 100 watts. Total pole and fixture height shall not exceed a maximum of 32 feet, measured from grade at the base. Taller poles may be considered in some situations upon approval of a Special Exception by the Board of Adjustments.

D. Display, building and aesthetic lighting must be externally lit from the top and shine downward. The lighting must be fully shielded to prevent direct glare and/or light trespass. The lighting must also be substantially contained to the target area.



31.6 PUBLIC AND SEMI-PUBLIC RECREATIONAL FACILITIES

- A. Any illumination level exceeding a maximum of twenty (20) footcandles must receive prior approval by the Board of Adjustments by means of a Special Exception.
- B. All fixtures used for event lighting shall be fully shielded, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare.
- C. All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m. except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.

31.7 PROHIBITED LIGHTING ELEMENTS

Unless otherwise authorized, the following shall be prohibited, except upon prior approval of a Special Exception by the Board of Adjustments.

- A. Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.
- B. Searchlights: The operation of searchlights for advertising purposes is prohibited.

31.8 EXEMPTIONS

- A. All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaries.
- B. All hazard warning luminaries required by Federal regulatory agencies are exempt from the requirements of this section, except that all luminaries used must be red and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task.
- C. Any luminaire of 75 watts or less provided the accumulated illumination of 50 watt luminaries does not exceed 75 watts.
- D. Seasonal decorative lighting.
- E. Uplighting of any City of New Fairview, State of Texas or United States of America flag.

31.9 TEMPORARY EXEMPTIONS

- A. Upon approval by the Administrative Official, temporary exemptions from the requirements of this section may be granted for a period not to exceed 30 days may be approved.
- B. Any person may submit a written request, on a form prepared by the City for a temporary exemption request. The request shall contain the following information:
  - a. Specific exemption(s) requested;

- b. Type/use of outdoor lighting fixture involved;
- c. Duration of time requested;
- d. Type of lamp and calculated footcandles;
- e. Total wattage of lamp(s);
- f. Proposed location of fixtures;
- g. Previous temporary exemption requests;
- h. Physical size of fixtures and type of shielding provided; and
- i. Such other data or information as may be required by the Administrative Official.
- j. Requests for renewal of exemptions shall be processed in the same way as the original request. Each renewal shall be valid for not more than fourteen (14) days or a time period designated by the Administrative Official.

C. Approval for temporary exemptions will be based on the effect of location and use of outdoor lighting fixture.

#### 31.10 NONCONFORMING LIGHTING

All luminaries lawfully in place prior to the date of the Ordinance shall be considered as having legal nonconforming status. However, any luminaire that replaces a legal nonconforming luminaire, or any legal nonconforming luminaire that is moved, must meet the standards of this section.

(Ordinance 2010-01-149 adopted 1/19/10)

### **Section 32 Cargo Containers**

#### 32.1 PURPOSE

It is recognized that uncontrolled storage and placement of cargo containers may detract from the value of adjacent property, discourage commerce, and negatively impact the aesthetic quality of nonresidential property and adjacent residential property. The purpose of this section is to provide for regulations that protect the value of property and enhance the appearance, health, safety, and welfare of the City.

#### 32.2 GENERAL REGULATIONS

A. Cargo containers in residential districts may be permitted for a period of 30 days. The 30-day period may be extended for an additional 30 days upon approval of a Special Exception by the Board of Adjustment. Residential parcels that exceed two (2) acres shall be exempt from these regulations.

B. Only one cargo container shall be permitted on any site in the “SF” and “MH” districts.

C. Cargo containers located in all zoning districts shall be located on an all-weather, dust-free surface approved by the Administrative Official.

D. Cargo containers located in the “SF”, and “MH” zoning districts shall not exceed sixteen (16) feet in length, eight (8) feet in width, and eight and one-half (8.5) feet in height.

E. Cargo containers shall be permitted in the all zoning district and shall not exceed two cargo containers on any site at any time, unless otherwise provided by this ordinance. All other applicable regulations contained herein shall apply.

F. Cargo containers shall not be stacked in any zoning district with the exception of the I, Industrial zoning district and shall not be stacked higher than two containers in such district.

G. Cargo containers shall not occupy any required off-street parking spaces, vehicular access, pedestrian facilities or landscape areas for the site.

H. Cargo containers shall be placed in a location that minimizes visual impact from surrounding streets and properties. For any site containing more than four cargo containers, a location plan shall be submitted and approved by the Administrative Official prior to locating the cargo containers on site. At such time all cargo containers shall be subject to the location plan.

I. Any cargo container located within one hundred (100) feet of a residential zoning district shall be no greater in size than ten (10) feet in width, twenty (20) feet in depth, and eight and a half (8.5) feet in height. And no cargo container may be stacked within 100 feet of a residential district.

J. Cargo containers shall not be used for a primary use without obtaining a Conditional Use Permit. Such Conditional Use Permit shall be accompanied with a detailed site plan of the entire site and must be approved by the City Council upon recommendation by the Planning and Zoning Commission.

K. Cargo containers located in any nonresidential zoning district shall not exceed a size of ten (10) feet in height, ten (10) feet in width, and thirty (30) feet in length, unless approved by the City Council upon recommendation of the Planning and Zoning Commission.

L. Areas utilized by cargo containers shall be included in the square foot requirement as a storage use and shall be considered in making the required parking calculations as set forth in Section 27, Off-Street Parking and Loading Requirements.

M. The number of cargo containers allowed in the “C” and “M” zoning districts, shall be determined by the total aggregate square foot of principal buildings according to the following rate:

0 to 35,000 sq. ft. of principal building	=	one cargo container
35,001 sq. ft. - 70,000 sq. ft.	=	two cargo containers
70,001 sq. ft. - 105,000 sq. ft.	=	three cargo containers
105,001 sq. ft. - 140,000 sq. ft.	=	four cargo containers
140,001 sq. ft. - 175,000 sq. ft.	=	five cargo containers
175,501 sq. ft. - 210,000 sq. ft.	=	six cargo containers
over 210,100 sq. ft.	=	number approved by the City Council

N. Cargo containers located within the “M” zoning district may exceed the above-listed numbers upon approval of a Special Exception by the [sic]

O. Board of Adjustment with a detailed site plan showing the proposed location and number of cargo containers.

P. Cargo containers shall not be allowed to be stored [on] public streets.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 33 Nonconforming Uses, Lots, and Structures**

33.1 CATEGORIES OF NONCONFORMITIES

Within the districts established by this ordinance, or amendments that may later be adopted, there exist

- A. Lots and uses of land,
- B. Buildings and structures,
- C. Uses of land and buildings in combination, and
- D. Characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to permit these nonconformities to continue under regulations contained herein until they are removed, but not to encourage their survival. It is further the intent of this ordinance that such nonconformities shall not be enlarged upon, expanded or extended, nor be used as ground for adding other buildings and structures or uses prohibited elsewhere in the same district.

33.2 NONCONFORMING USES REGULATED

Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. No nonconforming use of land or buildings, nor any nonconforming structure shall be enlarged, changed, altered, or repaired except in conformance with the regulations contained in this section.

33.3 NONCONFORMING STATUS

Any use, lot, or structure which does not conform to the regulations of the zoning district in which it is located, is nonconforming when:

- A. The use, lot, or structure was in existence and lawfully operating on the date of the passage of this ordinance, and has since been in regular and continuous use; or
- B. The use, lot, or structure is lawful at the time of the adoption of any amendment to this ordinance, but because of the amendment, no longer complies with applicable regulations; or

- C. The use, lot, or structure was in existence at the time of annexation to the City and has since been in regular and continuous use.

33.4 NONCONFORMING LOTS OF RECORD

In any district in which residential, commercial, or industrial buildings are permitted, buildings may be erected on any single lot of record, or multiple lots of contiguous street frontage in the same ownership, which were recorded prior to the effective date of this ordinance. This provision shall apply even though such lot or lots fail to meet the minimum requirements for area, width, or both, as governed by the applicable area regulations for that particular zoning district; however, all other provisions of the applicable zoning district area regulations shall apply. Any required variances shall be obtained only through the Zoning Board of Adjustment.

33.5 NONCONFORMING USES OF LAND

Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, the use may be continued so long as it remains otherwise lawful, provided:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
- B. No such nonconforming use shall be moved, in whole or in part, to any portion of the same lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.
- C. If any such nonconforming use of land is deemed to be abandoned for any reason for a period of more than 6 months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

33.6 NONCONFORMING BUILDINGS

Where a lawful building exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the building, such building may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming building may be enlarged or altered in a way which increases its nonconformity, but any building or portion thereof may be altered to decrease its nonconformity or to comply with City building codes.
- B. Should such nonconforming building or nonconforming portion of a building be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance, or when approved by the Zoning Board of Adjustment, after public hearing thereon, when the Board's findings, having due regard for the property rights of persons affected, were considered in the light of public welfare and the character of the area surrounding the nonconforming building and the conservation and protection of property.

- C. Should such building be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

33.7 NONCONFORMING USES OF BUILDINGS

If lawful use involving individual buildings exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in a particular district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing building devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the building to a use permitted in the district in which it is located, or to comply with City building codes.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, except as required by the City's building codes, any nonconforming use of a building, or building and premises, may be changed to another nonconforming use provided that the zoning board of adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the zoning board of adjustment may require appropriate conditions and safeguards in accord with the provisions of this ordinance.
- D. Any building in which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- E. When a nonconforming use of a building is discontinued or abandoned for six consecutive months, the building shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- F. Where nonconforming use status applied to a building and premises in combination, removal or destruction of the building shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at time of destruction.
- G. Where nonconforming use status applies to a conforming building, such use shall be immediately terminated upon transfer to another ownership or lease.

33.8 REPAIRS, AND MAINTENANCE

On any nonconforming building or portion of a building containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 50 percent of the current replacement cost of the nonconforming building or nonconforming portion of the building, as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

If a nonconforming building or portion of a building containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized City official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

33.9 NONCONFORMING USES DISCONTINUED

A nonconforming use of any building or structure which has been discontinued shall not thereafter be returned to any nonconforming use. A nonconforming use shall be considered discontinued when:

- A. It has been replaced with a conforming use; or
- B. Such building or structure is or hereafter becomes vacant and remains unoccupied or out of use for a continuous period of six months, or the equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced within such six month period; or
- C. The intention of the owner to permanently discontinue the use is apparent.

33.10 CHANGES THAT LESSEN NONCONFORMITY

Changing to a more restricted or less intensive nonconforming use that lessens the extent of the original nonconformity may be permitted by the Zoning Board of Adjustment.

33.11 CERTIFICATE OF OCCUPANCY

No nonconforming building or use shall be maintained, renewed, changed or extended until a certificate of occupancy shall have been issued by the administrative official. The certificate of occupancy shall state specifically wherein the nonconforming use differs from the provisions of this ordinance, provided that upon enactment or amendment of this ordinance, owners or occupants of nonconforming uses or buildings shall have three months to apply for certificates of occupancy. Failure to make such application within three months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this ordinance.

(Ordinance 2010-01-149 adopted 1/19/10)



**Article 5. Administration**

**Section 34 Administration and Enforcement**

34.1 ADMINISTRATIVE OFFICIAL

An administrative official designated by the City Council shall administer and enforce this ordinance. Said person may be provided with the assistance of such other persons or consultants as the City Council may direct.

34.2 ENFORCEMENT

If the administrative official finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 35 Completion of Buildings Under Construction**

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently. (Ordinance 2010-01-149 adopted 1/19/10)

**Section 36 Zoning Board of Adjustment**

36.1 ESTABLISHMENT

A. A zoning board of adjustment is hereby established, which shall consist of five regular members and two alternate members, each to be appointed for a term of two years by the City Council. Alternate members shall serve in the absence of regular member(s) in keeping with rules and procedures adopted by the zoning board of adjustment. Members of the zoning board of adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by appointment of the City Council for the unexpired term of the member affected. All cases to be heard by the Zoning Board of Adjustment must be heard by a minimum number of four members.

B. If it is deemed necessary by the City Council, the City Council may serve as the Zoning Board of Adjustment, according to Section 211.008(9) of the Local Government Code.

36.2 TERMS OF OFFICE

The terms of three of the members shall expire on the first Monday in June of each odd-numbered year, and the terms of two of the members shall expire on the first Monday in June of each even-numbered year. The members of the board shall be identified by place numbers one through five. The odd-numbered places shall expire in the odd-numbered years; the even-numbered places shall expire in the even-numbered years.

36.3 PROCEDURE

The Zoning Board of Adjustment members shall select a chairman and vice-chairman from among its members.

- A. The board shall hold an organizational meeting on the first Monday in July of each year and shall elect a vice-chair from among its members before proceeding to any other matters of business.
- B. Officers will serve for a term of one year.
- C. Meetings shall be held at the call of the chairman and at such other times as the board may determine.
- D. All meetings shall be open to the public.
- E. The Zoning Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the board.
- F. The zoning board of adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance and state statutes.
- G. A quorum for the conduct of business shall consist of four members of the commission.
- H. The members of the commission shall regularly attend meetings and public hearings of the commission and shall serve without compensation. Three consecutive unexcused absences shall constitute grounds for dismissal.
- I. Duties of the officers shall be as follows:
  - a. Chairman. The chairman shall preside at all meetings and may administer oaths and compel the attendance of witnesses, and shall have the same subpoena powers as the municipal court.
  - b. Vice-chairman. The vice-chairman shall assist the chairman in directing the affairs of the Board and act in the absence of the chairman.

### 36.4 POWERS OF THE BOARD

The Board of Adjustment shall have the powers and exercise the duties of a Board of Adjustment in accordance with Section 211.008 of the Texas Local Government Code. The Board's jurisdiction shall extend to and include the hearing and deciding of the following types of appeals and applications, and to that end shall have the necessary authority to ensure continuing compliance with its decision. The zoning board of adjustment shall have the following powers and duties:

- A. Interpretation. To render an interpretation of the zoning regulations or the manner of their application where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the administration of this ordinance. In reaching its decisions the Board shall establish firm guidelines for future administrative action on like matters.
- B. Special exceptions. To hear and decide upon those applications for special exceptions when the same is authorized under this ordinance subject to Board approval. A special exception shall not be granted by the board of adjustment unless it finds:
  - a. That the use is specifically permitted under the ordinance; and
  - b. That the locations of proposed activities and improvements are clearly defined on the site plan filed by the applicant; and
  - c. That the exception will be wholly compatible with the use and permitted development of adjacent properties.
- C. Variances. To authorize upon appeal in specific cases such variance from the height, yard area, coverage, and parking regulations set forth in this ordinance as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that it cannot be appropriately developed without such modification. A variance from the terms of this ordinance shall not be granted by the zoning board of adjustment unless and until it finds that:
  - a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; and
  - b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
  - c. That the special conditions and circumstances do not result from the actions of the applicant;
  - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district.

- e. The board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
- f. The zoning board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- g. Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

D. Nonconforming Uses.

- a. The Board may permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by the building, and the addition of off-street parking or off-street loading to a nonconforming use.
- b. The Board may require the discontinuance of nonconforming uses of land or buildings under any plan whereby the full value of the buildings and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity of all property to conform to the regulations of this ordinance. All actions to discontinue a nonconforming use of land or structure shall be taken with due regard to the property rights of the persons affected, when considered in light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of the property.
- c. The Board shall, from time to time, on its own motion or upon cause presented by interested property owners, inquire into the existence, continuation, or maintenance of any nonconforming use within the City.

36.5 APPEALS TO THE BOARD OF ADJUSTMENT

A. Interpretation. Appeals to the zoning board of adjustment concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer, agency, department or commission of the City affected by any decision of the administrative official. Such appeals shall be taken within 10 business days or such lesser period as may be provided by the rules of the board, by filing with the administrative official from whom the appeal is taken, and with the zoning board of adjustment a notice of appeal specifying the grounds for appeal. The administrative official shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

B. Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the zoning board of adjustment after the notice of appeal is filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the zoning board of adjustment or by a court of record on application, and on due cause shown.

C. Special Exception Application. An application for a special exception to use or develop property as specifically authorized in district use regulations or in this section may be filed by any person owning the affected property or by any tenant upon written authorization of the owner. Such application shall be filed with the Board, and a copy thereof with the administrative official.

D. Form of Appeal or Application. The appeal or application shall be in such form and contain such information as the Board may require under its rules of procedure. An incomplete appeal or application shall be deemed only to give notice of intent to appeal or apply to the Board, and shall not be reviewed or scheduled for hearing until brought to completion.

E. Notice of Hearing. Official written notice of public hearing on every application for a variance or special exception or for an interpretation of regulations applying solely to an individual property shall be sent to all owners of property, or to the person rendering the same for City taxes, affected by such application, located within 200 feet of any property affected thereby, within not less than 10 days before such hearing is held. Such notice shall be served by using the last known address as listed on the City tax roll and depositing the notice, postage paid, in the United States mail. Notice of hearings on requests for interpretation of regulations applying to more than one property and ownership shall be given by means of a general notice as provided below. In addition, a list of items on the agenda to be heard by the Board shall be posted at a public place in City Hall at least 72 hours before the hearing on said items, and a list of agenda items shall be published in a newspaper of general circulation in the City of New Fairview at least twenty-four (24) hours before the hearing at which action will be considered.

### 36.6 HEARING AND DECISION

A. Generally. The board shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney. Evidence supporting the grant or denial of an appeal shall be submitted only through the administrative official or to the Board in public meeting. An appeal or application may be withdrawn upon written notice of the administrative official, but no appeal shall be withdrawn after posting of hearing notice and prior to board action thereon without formal consent of the Board.

B. Decision and Voting.

- a. Every decision of the Board shall be based upon findings of fact and every finding of fact shall be supported in the record of proceedings. The enumerated conditions required to exist on any matter upon which the Board is authorized to pass under this ordinance shall be construed as limitations on the power of the Board to act.
- b. Nothing herein contained shall be construed to empower the Board to change the terms of this ordinance, or to effect changes in the zoning districts. The powers of the Board shall be so applied that the terms of this ordinance will be strictly enforced.

- c. In exercising the above-mentioned powers, the zoning board of adjustment may, so long as such action is in conformity with the provisions of Section 211.008, Board of Adjustment through Section 211.013, Conflict with Other Laws, Exceptions, of the Texas Local Government Code, may modify in whole or in part any order, requirement, decision or determination appealed from and may make such order, requirements, decision or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.
  - d. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.
- C. Disqualification from voting.
- a. A member shall disqualify himself from voting whenever he finds that he has a personal or monetary interest in the property under appeal, or that he will be directly affected by the decision of the Board.
  - b. A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the vote of the member on the appeal, other than in the public hearing.
- D. Approval of Request.
- a. In approving any request, the Board of Adjustment may designate such conditions in connection therewith in order to secure substantially the objectives of the regulations or provisions to which such variance is granted and to provide adequately for the maintenance of the integrity and character of the zone in which such permit is granted.
  - b. When necessary, the Board of Adjustment may require guarantees, in such form as it deems proper, to insure that conditions designated in connection therewith are being or will be complied with.
  - c. Unless a building permit or certificate of occupancy is obtained, appeal shall expire 60 days after the Board's decision unless a greater time is requested in the application and is authorized by the Board. Any approval may be granted one emergency extension of 60 days on written request filed with the Board before expiration of the original approval.
- E. Denial of Request. No appeal or application that has been denied shall be further considered by the Board under a subsequent request obtained by filing new plans and obtaining of a new decision from the administrative official unless:
- a. The new plans materially change the nature of the request; or
  - b. The permitted development of other nearby property in the same zone has been substantially altered or changed by a ruling of the Board, so as to support an allegation of changed conditions.

F. Appeals of Zoning Board of Adjustment Action. Any person or persons, or any board, taxpayer, department, commission or agency of the City aggrieved by any decision of the zoning board of adjustment may seek review by a court of record a petition duly certified, setting forth that such decision is illegal in whole or in part, specifying the grounds of such illegality. Shall petition shall be presented to the court within ten days after the filing of the decision complained of in the office of the Board of Adjustment, and not thereafter.

**36.7 AUTHORIZED SPECIAL EXCEPTIONS**

The following privately owned or privately operated uses may be permitted as special exceptions by the Board of Adjustment in the districts indicated below, subject to full and complete compliance with any and all conditions listed, together with such other conditions as the Board may impose for protection of the public health or safety. In addition, provisions for special exceptions listed within the text of this document but not contained in the table herein shall be authorized and enforced with the same authority as those events and listings contained herein.

Special Exception	District Where Permitted
Shared [parking] of the same off-street parking areas by two or more uses as follows: a. When two or more uses, according to such approved plan, share the same off-street parking area, each may be considered as having provided such shared space individually. b. The land uses and common parking facility must be located in close proximity to one another. c. The land uses must be located not farther from the shared parking than a distance of 300 feet, measured by a straight line from the nearest point of the land on which the use is served is located to the nearest point of the separated off-street parking space.	C and M
Off-site parking when the following applies: a. Must be located not farther from the use served than a distance of 300 feet, measured by a straight line from the nearest point of the land on which the use is served is located to the nearest point of the separated off-street parking space. b. A written agreement shall be drawn to the satisfaction of the City attorney and executed by all parties concerned assuring the continued availability of the off-site parking facilities for the use they are intended to service.	C and M
Additional Height for Parking Lot Light Poles	All Districts
Exceed Illumination of 20 footcandles for Public and Semi-Public Facilities	All Districts
Permit Laser Source Lights, Searchlights, [sic]	All Districts
Reduction of required parking between 11% and 50%	C and M
Antenna facilities which do not meet the requirements of Section 30, Wireless Communication Facilities	See Section 30
Additional height over 60 feet	C and M
Percentage of Masonry Exterior Requirement may be established according to merit	All Districts

**36.8 FEES**

There shall be a fee assessed for each request for a variance to this ordinance, in accordance with the City of New Fairview fee schedule. Costs shall not be allowed against the Board unless it shall appear to the court that the Board acted with gross negligence or in bad faith, or with malice in making the decision appealed.

(Ordinance 2010-01-149 adopted 1/19/10)

**State law reference**—Establishment and authority of zoning board of adjustment, V.T.C.A., Local Government Code, sec. 211.008 et seq.

**Section 37        Duties of City Council**

The duties of the City Council in connection with this ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. Under this ordinance the City Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this ordinance, as provided by law, and, of establishing a schedule of fees and charges as stated in Section 38, Fee Schedule. (Ordinance 2010-01-149 adopted 1/19/10)

**Section 38        Fee Schedule**

The City Council shall establish a schedule of fees, charges and expenses and a collection procedure for the administration, review and processing of applications regarding the issuance of building permits, certificates of occupancy, zoning change requests, plats, zoning board of adjustment appeals and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the zoning administrative official, and may be altered or amended only by action of the City Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. (Ordinance 2010-01-149 adopted 1/19/10)

**Section 39        Amendments**

**39.1 GENERALLY**

The regulations, restrictions, and district boundaries created by this ordinance may be amended from time to time by the City Council.

**39.2 AMENDMENT INITIATION**

An amendment to this ordinance may be initiated by the City Council on its own motion or an owner or agent having proprietary interest in any property.

**39.3 PROCEDURE**

Any amendment to this ordinance shall require public hearings to be held before the City Council.



39.4 NOTICE

When any amendment relates to a change in classification or boundary of a zoning district, written notice of all public hearings before the City Council on proposed changes and classifications shall be sent to owners of real property lying within 200 feet of the property on which the change in classification is proposed. Such notice will be given not less than ten days before the date set for hearing, to all owners as the ownership appears on the last approved City tax roll. Such notice may be served by depositing the same, properly addressed, postage paid, in the City post office. Notice shall also be posted along with the agenda for all hearings and related meetings in accordance with the applicable laws of the State of Texas.

When an amendment relates to a change of zoning classification or to the text of this ordinance not affecting specific property, notice of the public hearings before the City Council shall be given by publication in a newspaper of general circulation in the City without necessity of notifying property owners by mail. The notice shall state the time and place of the hearing and the nature of the subject to be considered, which time shall not be earlier than 15 days from the date of publication.

39.5 PROTEST

In case the City Council does not approve the change, or in case of a written protest against such change, filed with the City secretary and signed by the owners of 20 percent or more, either of the area of the lots included in such proposed change, or of those lying within 200 feet of the property on which the change is requested, the amendment shall not be approved except by the favorable vote of three-fourths of all members of the City Council.

39.6 FREQUENCY OF PETITION

A property owner, lessee, developer or option holder may petition the City Council for an amendment to the text or district map of this ordinance, provided that before any action shall be taken as provided in the section, the party or parties petitioning for amendment shall deposit with the City secretary the fee amount stipulated by resolution of the City Council to cover the approximate cost of this procedure, and under no condition shall said sum or any part thereof be refunded for failure of such proposed amendment to be enacted into law. A party shall not initiate the same action for a zoning amendment or specific use permit affecting the same land more often than once every 12 months.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 40        Violations and Penalties**

40.1 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrative official. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance.

**40.2 PENALTIES FOR VIOLATION**

Any person, firm, association of persons, corporation, or other organization who shall violate any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed \$2,000.00. Each day a violation of this ordinance shall continue shall constitute a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 41 Severability**

The sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section. (Ordinance 2010-01-149 adopted 1/19/10)

**Article 6. Definitions**

**Section 42 Rules for Words and Phrases**

**42.1 GENERAL INTERPRETATION**

For the purpose of this ordinance, certain terms and words are defined and shall have the meanings ascribed in this ordinance unless it is apparent from the context that different meanings are intended.

**42.2 TENSE AND NUMBER**

Words used in the present tense include the future tense; words in the singular number include the plural number; and words in the plural number include the singular number.

**42.3 INTERPRETATION OF CERTAIN WORDS**

The word “person” includes a firm, association, organization, partnership, trust, foundation, company, or corporation as well as an individual; the word “shall” is mandatory, not directory; the word “may” is permissive; the word “used” means “designed, intended, or arranged to be used”; “occupied” means “occupied or intended, designed, or arranged to be occupied.” The word “lot” includes the words “plot,” “parcel” or “tract of land”; the word “building” includes the word “structure”; the word “including” means “including but not limited to.”

(Ordinance 2010-01-149 adopted 1/19/10)

**Section 43        Definitions****43.1 GENERAL DEFINITIONS**

The following general definitions do not include the definitions of uses. Uses are defined in Section 43.2, Use Definitions and Explanations. The following words, when used in this ordinance, shall have the meaning respectively ascribed to them in this section, unless the context of this ordinance clearly indicates otherwise.

*Administrative Official.* The individual charged with the administration and enforcement of this ordinance, or his duly authorized representative.

*Alley.* A public minor way which is used primarily for secondary vehicular service access to the back or side of properties otherwise abutting on a street or highway.

*Basement.* A building story which is partly underground but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story in computing building height.

*Block.* An area enclosed by streets and occupied by or intended for buildings; or if used as a term of measurement, it shall mean the distance along a side of a street between the nearest two streets which intersect said street on the said side.

*Board.* The Zoning Board of Adjustment.

*Breezeway.* A covered passage one story in height and six feet or more in width connecting a main structure and an accessory building. A breezeway shall be considered an accessory building.

*Building.* Any structure built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire each portion so subdivided may be deemed a separate building.

*Building Line.* A line parallel or approximately parallel to the street line at a specific distance therefrom marking the minimum distance from the street line that a building may be erected.

*Cellar.* A building story with more than one-half its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height.

*Certificate of Occupancy.* An official certificate issued by the City through the administrative official which indicates conformance with or approved conditional waiver from the building or zoning regulations and authorizes legal use and occupancy of the premises for which it is issued.

*City Council (Council).* The governing body of the City of New Fairview, Texas.

*Court.* An open, unoccupied space bounded on three or more sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other permanent space.

*Density.* The number of dwelling units permitted per net acre of land. A net acre of land does not include portions of streets or alleys.

*District.* A section of the City of New Fairview for which the regulations governing the area, height, or use of the land and buildings are uniform.

*Dwelling Unit.* A building or portion of a building which is arranged, occupied or intended to be occupied as living quarters for one family and including facilities for food preparation and sleeping.

*Easement.* A grant of one or more property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

*Family.* Any number of persons living together as a single nonprofit housekeeping unit in which not more than four individuals are unrelated by blood, marriage, or adoption.

Notwithstanding the definition in the preceding paragraph, a family shall be deemed to include five or more persons not within the second degree of kinship occupying a dwelling unit and living as a single, nonprofit housekeeping unit, if said occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to occupy a dwelling in the same manner and to the same extent as any family unit as defined in the first paragraph of this definition.

*Fence.* An open or solid enclosure designed to contain or prevent intrusion. An open fence is one in which the vertical surface thereof is not less than 70 percent open. A solid fence is one in which the vertical surface thereof is not greater than 30 percent open, and may be considered as a screening element. (See also Screening element.)

*Floodplain.* Any land area susceptible to being inundated by water from any source.

*Floodway.* The channel, river, or other watercourse and the adjacent land area that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

*Floor Area.* The total square feet of floor space within the outside dimensions of a building including each floor level, but excluding cellars, attics, carports, or garages.

*Floor Area Ratio (FAR).* An indicated ratio between the number of square feet of total floor area in the main building(s) on a lot and the total square footage of land in the lot; it is the number resulting from dividing the main building floor area by the lot area.

*Glare.* A sensation of brightness within the visual field that causes annoyance, discomfort, or loss in visual performance and visibility.

*Grade.* The average of the finished ground level at the center of all walls of a building. In cases where walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

*Height.* The vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to:

- A. The highest point of the roof's surface if a flat surface;
- B. To the deck line of mansard roofs; or

- C. To the mean height level between eaves and ridge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires, and parapet walls not exceeding ten feet in height.

If the street grade has not been officially established, the average front yard grade shall be used for a base level.

Impervious Coverage. Any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land.

Infrastructure. The essential facilities such as water, sewers, streets, highways, public utilities, libraries, parks, police and fire services, and other facilities related to the protection of the health, safety, and general welfare.

Landscaping. Live plant material including grass, shrubs, trees, and flowering plants as required by Section 29, Landscape Regulations.

Loading Space, Off-street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot. A parcel of land which is shown on an approved plat recorded in the Wise County plat records.

Lot Area. The area of the horizontal plane bounded by the vertical planes through front, side, and rear lot lines.

Lot, Corner. A lot abutting upon two more streets at their intersection.

Lot Coverage. The percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot.

Lot Depth. The horizontal mean distance between the midpoint of the front and the midpoint of the rear lot lines.

Lot, Flag. A lot with access provided to the bulk of the lot by means of a narrow corridor.

Lot, Interior. A lot that is other than a corner lot.

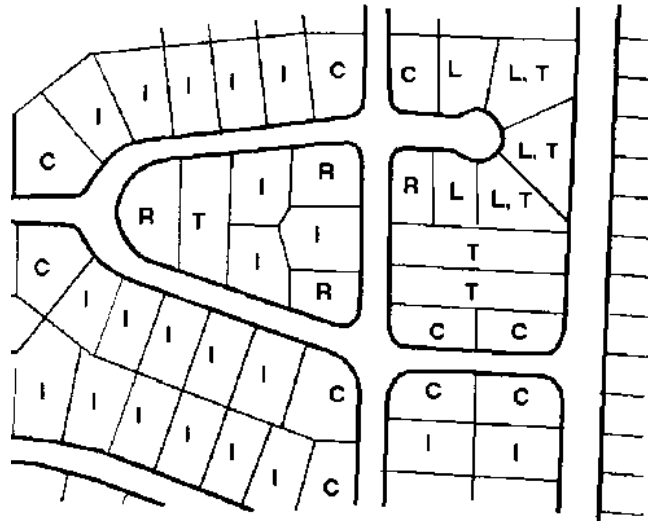
Lot Lines. The property lines bounding a lot as defined herein.

Lot Line, Front. The boundary between a lot and the street on which it fronts.

Lot Line, Rear. The boundary line not intersecting a front lot line which is most distant and most closely parallel to the front lot line.

Lot Line, Side. Any lot boundary line not a front or rear line thereof.

**Lot, Through.** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots. Such lot(s) shall provide a front yard on each street.



- Legend**
- C Corner Lot
  - I Interior Lot
  - R Reverse Corner Lot
  - T Through Lot
  - L Cul-de-Sac Lot

**Lot Width.** The width of a lot at the front building line.

**Main (Principal) Building.** The building or buildings on a lot which are occupied by the primary use.

**Masonry.** That form of construction composed of brick, stone, concrete, gypsum, hollow-clay tile, glass block, fiber-cement board, stucco or similar building units or materials or combination of these materials laid up unit by unit and set in mortar (Masonry does not include exterior insulated finish systems (EIFS).)

**Nonconforming Building.** A building which legally existed prior to the adoption, revision, or amendment of this ordinance but that does not meet the limitations on building size or location on a lot for the district in which the building is located, or for the use being made of the building.

**Nonconforming Lot.** A lot which was in compliance with applicable regulations prior to the adoption, revision, or amendment of this ordinance, but which fails by reason of adoption, revision, or amendment to conform to the lot requirements for the district in which it is located.

**Nonconforming Use.** A use of land which legally existed at the time of the effective date of this ordinance, or subsequent amendments thereto, which does not conform to the use regulations of the district in which it is situated.

**Occupancy.** The use or intended use of the land or buildings by proprietors or tenants.

Open space. Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves or porches.

Parking Space, Off-street. For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be within any public street, or alley, right-of-way, and so that any automobile may be parked and unparked without moving another. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room shall be estimated at 300 square feet for residential uses and 400 square feet for nonresidential uses, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements in this ordinance are provided, maintained and improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the City. All required off-street parking spaces shall be provided and maintained wholly within private property lines and not within any public highway, street or alley right-of-way.

Plat. A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City and subject to approval by the City Council. Reference to a final plat in this ordinance means an official plat of record which has been approved by the City Council and filed in the plat records of Wise County.

Premises. Land together with any buildings or structures occupying all or any portion of the land.

Private Drive, Street, or Place. An open, unoccupied space, other than a street or alley, permanently established or reserved or dedicated in private ownership as the principal means of vehicular access to property abutting thereon.

Property line. (See lot line.)

Residence. Same as a dwelling; also when used with the word “district,” an area of residential regulations.

Room. A building or portion of a building which is arranged, occupied or intended to be occupied as living or sleeping quarters but not including toilet or cooking facilities.

Screening Element/Device. Screening element (device) or suitably screened as herein referred, shall mean any of the following:

- A. Any solid material constructed of brick, masonry, or of a concrete or metal frame, or wood, or base which supports a permanent type material, the vertical surface of which is not more than 30 percent open; or
- B. Any dense evergreen hedge or plant material suitable for providing a visual barrier, for which such material shall be maintained in a healthy growing condition;
- C. Landscaped earth berms may, when appropriate in scale, be considered and used as a screening element in lieu of a fence, wall, hedge or other dense planting material.

Semi-trailer. A vehicle designed or used with a motor vehicle so that part of the weight of the vehicle and its load rests on or is carried by another vehicle.

Setback, Building. The minimum horizontal distance between the front wall of any projection of the building (excluding steps) and the street line. (Same as Building line.)

Special Exception. A use that would not be generally appropriate without restriction throughout the zoning district but which, if controlled as to number, area, location, intensity or relation to the neighborhood, would or could be compatible therein and promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted as special exceptions by the zoning board of adjustment, after public hearing thereon. See Section 36, Zoning Board of Adjustment.

Specific Use. The use of any building, structure, or land not specifically allowed by district regulations, but permitted as a specific use in accordance with Section 21, Specific Use Permits.

Story. That part of a building included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. A top story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is above the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four feet above the curb level, established or mean street grade or average ground level.

Street. A public way between two right-of-way lines (other than an alley or private drive) which has been dedicated or deeded to the public for public use and affords a principal means of access (vehicular or otherwise) to property abutting thereon, as well as for utilities and sidewalks.

Street Line. The right-of-way line of a street.

Structural Alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls, excepting such repair or replacement as may be required for the safety of the building, but not including openings in bearing walls as permitted by the City building code.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings and mobile homes.

Thoroughfare. Those public streets designated on the City of New Fairview Thoroughfare Plan as “thoroughfares.”

Trailer. A vehicle that is designed or used to carry a load wholly on its own structure; and is drawn or designed to be drawn by a motor vehicle.

Variance. A variance is a relaxation by the Board of Adjustment of the dimensional regulations of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions or the situation of the applicant, a literal enforcement of the zoning ordinance would result in unnecessary and undue hardship. See Section 36, Zoning Board of Adjustment.



Vehicle. As used herein shall include motor vehicle, motorcycle, trailer and semi-trailer.

Yard, Front. A yard across the full width of the lot extending from the building line to the front line of the lot abutting a street. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

Yard, Rear. A yard between the rear lot line and the rear line of the main building and the side lot lines. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

Yard, Side. A yard between the building and the side line of the lot and extending from the front yard to the required minimum rear yard. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

Zoning District Map. The official certified map upon which the boundaries of the various zoning districts are drawn and which is an integral part of the zoning ordinance.

#### 43.2 LAND USE DEFINITIONS AND EXPLANATIONS

The following definitions and explanatory notes supplement, restrict, and define the meaning and intent of the uses listed in Section 11.2, Permitted Use Table.

Accessory Building. A subordinate building having a use customarily incident to the main building. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.

Accessory Use. A use customarily incidental to the main use of the property.

Agricultural Use. The use of a parcel of land for farming or ranching and shall include the structures that are normally associated with agricultural uses. However, this use shall not include commercial dairies, commercial dog kennels, commercial hatcheries, and commercial mink, fox, rat, or other fur-bearing animal farms, or the farming of swine or exotic animals.

Ambulance Service. An establishment which provides ambulatory transport of persons, to or from a medical facility, for a fee.

Amusement Center, Indoor. A facility providing game equipment for entertainment and amusement as its primary source of income. Games contained in the facility may include coin-operated machines utilizing balls, pins, and baskets, video equipment, and pinball. Other equipment may include skill games such as pool, billiards, bowling, shuffle board, darts, and batting cages. Any combination of these games may be used in the facility. Games of wagering and chance, including 8-liners, categorized as gambling are prohibited and not included in this use.

*Amusement Center, Outdoor.* An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open.

*Animal Grooming.* An establishment that offers to the general public the service of animal grooming for domestic pets. No boarding or medical care is provided.

*Animal Pound, Shelter.* A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

*Antique Shop.* An establishment offering for sale articles such as glass, china, furniture, or similar furnishings and decorations which have value and significance as a result of age, design, or sentiment.

*Apartment.* A room or suite of rooms arranged, designed, or occupied as a dwelling unit residence by a single family, individual, or group of individuals living together as a single housekeeping unit.

*Apparel Alteration and Repair or Tailor Shop.* An establishment offering individual alteration, repair, or creation of clothing apparel to the public.

*Appliance Repair, Household.* A shop specializing in repair of household appliances.

*Art Gallery.* An establishment offering works of art for viewing and sale to the general public.

*Arts, Crafts, and Hobby Shop.* An establishment offering for sale those items commonly associated with hobbies, including display areas for hobbies.

*Assembly Hall.* A building and associated facilities dedicated to social or recreational activities serving the City or a neighborhood.

*Assembly Plant.* A facility for the assembly of equipment including automobiles, trucks, farm machinery, railroad cars, engines, and appliances from components fabricated for the most part in other locations.

*Athletic Field and Play Field, Commercial.* An athletic field or stadium owned and operated privately, including a baseball field, golf course, football field, or stadium which may be lighted for night-time play.

*Athletic Field and Play Field, Public.* An athletic field or stadium owned and operated by a public agency for the general public, including a baseball field, golf course, football field, or stadium which may be lighted for night-time play.

*Auction House.* A place where objects of art, furniture, or other goods are offered for sale to persons who bid on the object in competition with each other.

*Auditorium.* A large building and associated facilities for gathering an audience for speeches and performances.

*Auto Auction.* An enclosure or area, including outside storage, designed for the sale of automobiles at auction or using other sales techniques.

*Auto Car Wash.* An area and/or structure with machine or hand operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.

*Auto Impound Lot/Wrecker Business.* An establishment offering the service of towing, impounding, and temporary storage of vehicles either which have been in an accident or are illegally parked.

*Auto Paint and Body Shop.* An automotive shop with a primary purpose of repairing and painting the outside surfaces of automobiles, trucks, and vans, and repairing and replacing the upholstery of such vehicles.

*Auto Parts and Accessory Sales.* An automotive shop with a primary purpose of selling new parts and accessories for automobiles, trucks, and vans.

*Auto Rental (Car and Truck).* An establishment primarily engaged in the short-term rental or extended term leasing of automobiles and trucks, not including truck tractors or semi-trailers.

*Auto Repair Garage.* An enclosed facility designed for the repair and maintenance of automobiles, trucks, and vans with outside storage allowed but no outside repair or maintenance conducted.

*Auto Sales, New and Used.* An open area or lot used for the display or sale of automobiles, trucks, and vans, where no repair work is done except minor reconditioning of the cars to be displayed and sold on the premises, and no dismantling of cars for sale or keeping of used car parts or junk on the premises.

*Auto Service Station.* An establishment for the retail sales of petroleum products, automobile accessories, auto tune-up, muffler installation incidental to the primary use, tire installation or repair, oil change or other lubricate services in which all services provided and all storage, supplies, parts, equipment, and accessories are indoors, with the exception of fuel-dispensing operations.

*Auto Service Station, Light Maintenance.* A premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall include automobile inspection services, but shall not include areas where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.

*Bakery, Retail Confectionery.* A shop offering for sale on premises those baked goods or candies made on premises or off premises. No production for off-premise sale is allowed.

*Bakery, Wholesale Candy.* A manufacturing facility for either baked goods or candy with the purpose of selling the products at off-site retail locations.

*Bank, Savings and Loan Association, Financial Institution.* A building or premise offering banking, savings and loan, and other financial services, not including pawn shops as herein defined.

Barber Shop, Beauty Salon, other Personal Shop. An establishment which provides personal services including haircuts, perms, color treatments, manicures, pedicures, and other personal beauty services.

Boardinghouse. A building other than a hotel, where lodging and meals for five or more persons, not members of the principal family therein, are served for compensation.

Bottling Works. A facility for the bottling of products for off-site retail sales.

Building Materials Manufacturing. A facility for the production of building materials which include fiberglass, wallboard, shingles, etc.

Building Material Sales. A distribution and sales center for retail and wholesale hardware, plumbing, lumber, and other materials used in the building trade.

Bus, Train, and Taxi Station or Terminal. A facility that provides for regularly scheduled transit services, passenger lounges, ticketing, and customer parking.

Cabinet and Upholstery Shop. A shop for the assembly of cabinetry for domestic use and furniture repairing, refinishing, and upholstery.

Camp Ground and Related Facilities. An area that is occupied or intended or designed for occupancy by transients using recreational vehicles, tents, or other temporary dwellings for dwelling, lodging, or sleeping purposes. The use may also include cooking facilities, bath houses, and recreation areas. This does not include a manufactured housing community.

Caretaker's Residence, Guard's Residence, Servant's Quarters. A residence located on a premises with a main nonresidential or residential use occupied only by an employee of the principal use, and serviced through the same utility meters or connections as the principal use to which it is accessory. Manufactured homes are not permitted for this use.

Carport. A structure built and used for the shelter and protection of motor vehicles against the elements and consisting of a roof and supports, open on three sides from roof to adjacent ground level.

Catering Service. A facility where food is prepared in large quantities to be transported to, served, and consumed at an off-site location.

Cemetery, Mausoleum, Crematorium. An area or structure designed to contain the remains of humans or animals for permanent interment.

Clinic. A public or private, profit or nonprofit facility for the reception and treatment of outpatient persons physically or mentally ill, injured, handicapped, or otherwise in need of physical or mental diagnosis, treatment, care, or similar service.

Collectibles Shop. A retail establishment offering such collectible items as sports trading cards, comic books, and stuffed animals for sale to the general public.

Community Center. A building dedicated to social or recreational activities, serving the City or a neighborhood and owned and operated by the City, or by a nonprofit organization dedicated to promoting the health, safety, morals, or general welfare of the City.

Contractor, No Outside Storage Permitted. A business such as an electrician, mechanic, or plumber whose primary use provides a service by installing electrical, mechanical, or plumbing systems; which also may have limited sales of electrical, mechanical, or plumbing supplies or equipment as a secondary use incidental to its primary use. No outside storage permitted.

Contractor, Outside Storage Permitted. A business such as an electrician, mechanic, or plumber whose primary use provides a service by installing electrical, mechanical, or plumbing systems; which also may have limited sales of electrical, mechanical, or plumbing supplies or equipment as a secondary use incidental to its primary use. Outside storage permitted.

Contractor's Storage or Equipment Yard. An area located on the same lot or separate lot as a principal use, used for outside storage of construction equipment, including vehicles and construction material.

Convenience Store, with or without Fuel Sales. A premise where gasoline and/or other petroleum products are sold as a principal use, and in connection with the principal use, a convenience store offering for sale prepackaged food products, household items, and other goods commonly associated with the same.

Convent, Rectory, Monastery. The building, buildings, or premises occupied by a religious community or association as a residence and a place of work and worship.

Copy Shop. A small commercial printing shop which sells on-site most of the items printed along with associated items.

Cosmetic Tattoo Establishment. An establishment where trained personnel apply micro-injections of pigment to the dermal layer of skin such that facial cosmetics are applied on a permanent basis. This does not include a tattoo parlor.

Country Club. An area containing a golf course and a clubhouse and available only to private specific membership. Such a club may contain adjunct facilities such as a private club (only in conformance with these regulations and applicable state statutes), dining room, swimming pool, tennis courts, and similar recreational or service activities.

Dairy Processing. A commercial plant for the storage and processing of milk and milk products.

Day Care Center, Adult. An agency at which six or more disabled or elderly adults not related to the proprietor, are left for care for a part of the 24 hours of the day.

Day Care Center, Child. An agency at which six or more children, under the age of 16 and not related to the proprietor, are left for care for a part of the 24 hours of the day.

Day Care, in the Home. A private residence where care, protection, and supervision are provided on a regular schedule, at least twice a week to no more than six children, including children of the adult provider.

Department Store. A store offering a variety of comparison and consumptive goods at retail price to the general public.

Dwelling, Assisted Living Facility. A facility intended to provide dwelling units for occupancy by persons requiring the level of care and support defined by the State of Texas as “supervised living.”

Dwelling, Guesthouse. A residential dwelling, which may include living, sleeping, bathing, and kitchen facilities but is secondary to the main dwelling structure and is used solely for habitation of guests on a temporary basis and at no compensation.

Dwelling, Industrialized Housing. A detached residential building that is designed for the use and occupancy of one family, that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent residential site, and that is designed to be used as a permanent residential structure when the modules or modular components are transported to the permanent residential site and are erected or installed on a permanent foundation system. The term does not include any residential structure that is in excess of three (3) stories or forty-nine (49) feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof. The term shall not mean nor apply to (i) housing constructed of sectional or panelized systems not utilizing modular components; or (ii) any ready-made home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location.

Dwelling, Manufactured Housing or Mobile Home. Shall be defined and differentiated by the following:

- A. Mobile Home is a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length; or when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.
- B. HUD-Code Manufactured Home is a structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length; or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

Dwelling, Multi-Family. A residential building containing three or more dwelling units, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single-Family Attached. An attached residential building, not including a mobile home or HUD-Code manufactured home, which contains not more than one dwelling unit per lot of record.

Dwelling, Single-Family Detached. A detached residential building, not including a mobile home or a HUD-Code manufactured home, which contains not more than one dwelling unit per lot of record.

Dwelling, Two-family. A residential building containing two dwelling units.

Electrical Generating Station. A facility designed to convert electrical current from other energy sources for consumption by dwellings and other structures.

Electrical Substation. A facility designed to convert electrical current to a different phase or voltage prior to consumption by dwellings and other structures.

Electrical Transmission Line. A high-voltage line used to transmit electrical current to or between electrical substations or long distances and customarily associated with towers.

Electronics Manufacturing. A facility for the production of printed circuit boards, microchips, and other electronic parts which may be assembled on-site into end products such as computers, televisions, radios, and communication equipment.

Exterminating Service. A business providing extermination services for household pests, including insects and rodents.

Factory Outlet, Retail or Wholesale Store. An establishment that offers goods and products to the public that are obtained direct from the manufacturer at prices that reflect savings due to the reduced cost of said direct distribution.

Farm Machinery and Implement Sales and Service. An enclosed area designed for sales and repair of farm machinery.

Farmer's Market. The offering for sale of fresh agricultural products directly to the consumer at an open air market, where the vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

Flea Market (Swap meet). An outdoor commercial activity, not including shopping centers, individual retail operations, or sales conducted by a nonprofit or charitable organization, that is open to the general public and composed of semi-enclosed or outdoor stalls, rooms, stands, or spaces used for the purpose of display and sale, exchange, or barter of merchandise, which usually does not include foodstuffs. (Does not include informal garage or yard sales)

Funeral Home, Mortuary. A building or part thereof used for human funeral services. Such building may contain space and facilities for cremation facilities, embalming, and the performance of other services used in preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related supplies; and the storage of funeral vehicles. Where a funeral home is permitted, a funeral chapel shall also be permitted.

Furniture, Fixture, and Appliance Store. A retail establishment offering home furnishings, fixtures, and appliances to the general public.

Garage, Private. An enclosed two-car accessory building or portion of a main building on the same lot and used for the storage only of private passenger motor vehicles and recreational vehicles, owned and used by the owners or tenants of the premises.

Garage, Public. A building or portion thereof, except as herein defined as a private garage or as a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire; in which any sale of gasoline, oil, and accessories is only incidental to the principal use. Facilities for washing may be provided.

Garage, Repair. A building or space for the repair or maintenance of motor vehicles, not including factory assembly of vehicles, auto wrecking establishments, or junkyards.

Gas Regulator Station. A station used to regulate the flow or pressure of gas in a pipeline.

Gift Shop. A shop offering gifts, souvenirs, and associated products for sale.

Go-Cart Track and Other Motor Vehicle Track or Facility. A private, commercial enterprise offering outdoor go-cart tracks to the general public for a fee or charge. A go-cart is a non-licensed motorized low horsepower vehicle powered by either a gas or electrical motor to be used for the purpose of entertainment, generally having the capacity of one driver/operator. Does not include remote control vehicles.

Golf Course, Driving Range. An establishment offering areas for driving of golf balls including “pitch and putt” facilities.

Golf Course, Miniature. An establishment offering facilities for miniature golf.

Golf Course, Private. Grounds and facilities used in the playing of the game golf, for use by private membership.

Golf Course, Public. Grounds and facilities used in the playing of the game golf, privately owned but open to the public for a fee and operated as a commercial venture.

Governmental Administration Facility. A building or structure owned, operated, or occupied by governmental agency to provide a governmental service to the public.

Greenhouse or Plant Nursery. An establishment operated for commercial purposes, offering plants grown on premises and off premises and associated products for sale for use in connection with home gardening activities.

Grocery Store. A retail store primarily engaged in the retail sales of all sorts of canned goods, dry goods, fresh fruits and vegetables, and fresh and prepared meats, fish, and poultry.

Group Home for the Disabled or Disadvantaged. A dwelling shared by four or more disabled persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible in order to reach their maximum potential.

As used herein, the term “disabled” shall mean having (1) a physical or mental impairment that substantially limits one or more of the person’s major life activities so that such person is incapable of living independently; (2) a record of having such an impairment; or (3) being regarded as having such an impairment. However, “disabled” shall not include current illegal use



of or addiction to controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term “group home for the disabled” shall not include alcoholism or drug treatment center[s], work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

*Gymnasium.* A building or room used for physical education and sports, which may be equipped with gymnastic or other sports related equipment and which may have seating in which spectators may view sports activities.

*Hardware Store.* An establishment offering hand tools, small building materials, and associated convenience items for sale to the general public.

*Health Club, Recreation Facility.* An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzi, and/or sauna and pro shop, gymnasiums, private clubs (athletic, health, or recreational), reducing salons, and weight control establishments.

*Heliport.* A landing facility for rotary wing aircraft subject to regularly scheduled use and may include fueling or servicing facilities for such craft.

*Helistop.* A landing pad for occasional and infrequent use by rotary wing aircraft with no fueling facilities.

*Hobby Studio, Private.* An accessory activity area, used by the occupants of the premises purely for personal enjoyment, amusement, recreation, or cultivation of artistic talents.

*Home Occupation.* An occupation customarily conducted for gain or support entirely within a dwelling by a member or members of a family while residing therein, and which is clearly incidental and secondary to the residential use of the premises and does not change the character thereof. See Section 25, Home Occupations.

*Hospital.* An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice including related facilities such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities. Hospitals may include supportive retail and personal service uses operated by or under the control of the hospital primarily for the convenience of patients, staff, and visitors.

*Hotel, Motel.* A building or portion thereof in which ten or more guest rooms are provided for occupancy for compensation by transient guests.

*Junk.* The term “junk” is defined to mean, and shall include, scrap iron, scrap tin, scrap brass, scrap copper, scrap lead, or scrap zinc and all other scrap metals and their alloys, and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old cotton or used machinery, used tools, used appliances, used fixtures, used utensils, used boxes or crates, used pipe or pipe fittings, used automobile or airplane tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, subject to being dismantled for junk.

*Kennel*. A lot or premises on which four or more dogs, cats or other domestic animals at least four months of age are housed or accepted for boarding, trimming, grooming and/or bathing for which remuneration is received.

*Laboratory, Medical and/or Dental*. A facility with materials and scientific and technological equipment designed for scientific experimentation, examination, evaluation, and documentation for medical and other technologies.

*Landscape Service*. A business principally engaged in the decorative and functional alteration, planting, and maintenance of grounds. Such a business may engage in the installation and construction of underground improvements necessary to support or sustain the landscaped surface of the ground.

*Laundry, Dry Cleaning Full-Service*. A retail establishment providing full service laundry and dry cleaning services to the general public.

*Laundry, Dry Cleaning Pickup and Receiving Station*. A retail establishment providing a drop-off and pickup point for customers to leave wearing apparel or other material in need of laundry and dry cleaning and pick up of items when laundered and/or dry cleaned.

*Laundry, Dry Cleaning Self-Service*. A retail establishment providing facilities for customers to launder or dry clean wearing apparel or other materials.

*Library*. Buildings and structures open for the general public, for which a fee may or may not be charged for the use of book and other media collections.

*Lithography or Print Shop*. A large commercial printing shop with multiple presses and capabilities.

*Locksmith Shop*. A shop that specializes in making, selling, and repairing keys, locks, and associated material.

*Lodge, Fraternal, Sorority, and Clubs*. An association of persons meeting regularly for their mutual benefit or for the promotion of some common purpose, supported jointly through payment of membership dues, all members having the right to vote on policies and business.

*Machine Shop*. A shop that manufactures metal products through the use of presses, stamps, and dyes.

*Machinery Sales or Repair*. A facility for the storage, repair, outside sales, or rental of heavy machinery or equipment.

*Manufactured Housing Park or Subdivision*. A parcel of land not less than three acres in size developed for rental or sale of lots for the installation for residential uses of HUD-Code manufactured Housing.

*Manufactured or Industrialized Housing Sales or Rental*. An area devoted to outside sales or rental of HUD-Code manufactured homes or industrialized housing. For off-premise residential use only.

Manufacturing Facility (Light). A facility used for sub-assembly, or assembly of sub-assemblies for industrial purposes, and may conduct manufacturing that does not emit noise, odor, dust, or other hazards.

Meat Market. A retail facility that offers meat, fish, and poultry products for sale to the public and shall include the sale of meat and meat products to restaurants, hotels, clubs, and other similar establishments when such sale is conducted as part of the retail business on the premises.

Meat Product Processing. A facility for processing cuts of meat from off-site into finished products.

Medical, Dental, and Optical Retail Sales. An establishment offering prescription and over-the-counter products for sale.

Medical, Dental Office. Offices for one or more physicians, surgeons, or dentists engaged in treating the sick or injured, but not including rooms for the abiding of patients.

Medical Equipment Sales, Rental, and Leasing Service. An establishment including offices, stores, and display rooms for the display, sale, rental, and leasing of medical equipment.

Mini-warehouse. A building or group of buildings in a controlled-access and fenced compound consisting of varying sized of individual, compartmentalized, and controlled-access, self-contained units that are leased or owned for the storage of business and household goods or contractor supplies.

Motor Freight Terminal. A facility with the capability of handling a large variety of goods involving various forms of transportation and providing multimodal shipping capabilities, such as rail to truck and truck to air.

Museum. An institution for the collection, display, and distribution of objects of art or science which is sponsored by or owned and operated by the City, a public or quasi-public agency, and which facility is open to the general public.

Music Store. An establishment offering music, musical instruments, and other related items for sale to the general public. Such establishment may offer repair services of musical instruments.

Nursing Home. A structure used for or occupied by persons recovering from illness or suffering from the infirmities of old age, including developments containing convalescent or nursing facilities.

Office, Business. An office in which chattels or goods, wares, or merchandise are not commercially displayed, created, sold, or exchanged.

Office Machine Sales and Service. A shop specializing in the sale and repair of office machinery.

Office, Professional. A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations. Including but not limited to insurance broker, public stenographers, real estate broker, stock broker, doctor, dentist, and other persons who operate or conduct offices which do not require the stocking of goods for wholesale or retail sales.

Office, Real Estate Development Tract or Field Office. A temporary office for the purpose of selling real estate to the general public located on or adjacent to the real estate being offered for sale.

Office Supply Store. A store that specializes in office supplies.

Optician Shop. A shop that manufactures optical devices, especially eyeglasses.

Park. Public or private land available for recreational, educational, cultural, or aesthetic use.

Parking Area. An area for the driving, parking, display, or storage of motor vehicles.

Parking Lot, Commercial (Auto). A structure or lot devoted to the temporary parking of automobiles for a fee.

Parking Lot, Commercial (Truck). A facility for temporary parking of currently commercial licensed trucks in excess of one ton, for a fee.

Pawn Shop. A shop specializing in making small loans against personal property or buying used personal goods from individuals.

Pet Shop. A shop offering small animals for sale, with associated goods and services.

Pharmaceutical Plant. A facility for the production of drugs for medicine.

Pharmaceutical Products Manufacturing. A facility for the production of drugs for medicine.

Pharmacy. An establishment offering prescription and over-the-counter pharmaceuticals and other associated products for sale to the public.

Philanthropic and/or Charitable Use. A nonprofit organization supported mainly by charity and whose principal function is the performance of charitable work.

Photographic Equipment Sales and Service. A shop that specializes in the sale and repair of photographic equipment.

Photographic Service. An establishment offering drop-off of film for processing and pickup of developed photographs and related services.

Plastic Products Manufacturing. A facility for the production of molded products constructed out of plastic, fiberglass, or other composite material.

Private Club. An establishment providing social and dining facilities as well as alcoholic beverage service to an association of persons and otherwise falling within the definition of and permitted under the provisions of that portion of Title 3, Chapter 32, VTCA, Alcoholic Beverage Code, as hereafter amended and as it pertains to the operation of private clubs.

Public Maintenance Building, Storage Yard. A structure or yard that is used for storage of equipment, materials, or other property and that is owned and maintained by a governmental entity.

Public Safety Facility, Police and Fire. A facility designed to provide public protection from dangers of fire and crime, including civil defense, operational centers, police and fire stations, and training facilities.

Public Utility. A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

Radio, Television Studio. A facility designed to create and broadcast original source programming, or relay commercial programming from another source, including taped or pre-recorded materials for any part of the radio spectrum for commercial consumption.

Railroad Freight Terminal. A facility for the assembly or storage of freight to or from rail cars.

Recreational Ranch or Farm. An establishment incorporating a variety of rural uses, including sports arenas, rodeo grounds, pavilions, animal stables, and facilities which may be rented for private parties.

Recreational Vehicle Storage (Commercial). A facility or location which, upon payment of a fee, provides for the parking and storage of recreational vehicles.

Recycling Collection Center. A building in which used materials such as newspapers, glassware, and metal cans are separated and processed prior to shipment to others who will use those materials to manufacture new products.

Religious Institution. Facilities in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or propagating a particular form of religious belief.

Rental Store. An establishment that provides equipment and goods for rent by the general public to be used off-site. All storage of rental equipment and goods shall be contained within the limits of the primary structure.

Rental Yard, Commercial and Heavy Equipment. An establishment that provides heavy equipment for rent to contractors or the general public to be used off-site. The storage of rental equipment or goods may occur either within the limits of the primary structure or may be displayed and stored outside of the primary structure. Areas reserved for repairs and maintenance of all equipment or goods must be within the primary structure.

Restaurant. A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customer consumes these foods while seated at tables or counters located within the building. Such use includes cafes, lunch rooms, and tea rooms.

Restaurant, Drive-in/Drive-thru. Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Restaurant, Refreshment Stand (Temporary or Seasonal). Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages from a temporary or permanent building on a temporary or seasonal basis.

Rodeo Ground/Fair Ground. An outdoor entertainment area providing an arena for rodeo activities, including grandstands and bleachers for the viewing public, storage pens, and facilities for the caring and presentation of livestock, and open area for exhibits and carnival activities.

Rooming house. A building other than a hotel where lodging for three but not more than 12 persons is provided for definite periods for compensation pursuant to previous arrangement.

Salvage Yard. An area for salvage of metals, and/or other fabricated products, which may include a yard or building where automobiles or parts of automobiles or machinery are stored, dismantled and/or offered for sale in the open as whole units, as salvaged parts or as processed metal.

School, Business College. A facility that provides a curriculum limited to the teaching of office and business practices and skills.

School, College or University. An academic institution of higher learning, accredited or recognized by the State, and offering a program or series of programs of academic study leading to a recognized degree or advanced degree. Including junior and senior colleges, universities, conservatories and seminaries.

School, Commercial Instruction. A facility that instructs and trains students in the arts, such as of music, dance, gymnastics, or martial arts, and is primarily operated on a commercial basis.

School, Commercial Trade. A business organized to operate for a profit and offering instruction and training in a trade such as welding, brick laying, machinery operation, and similar manual trades.

School, Home. Educational activities consisting of a defined curriculum with the purpose of satisfying the state educational requirements and said educational activities being conducted in the home of a student living in the home. Said educational activities shall be considered to be a part of the housekeeping activities of a family.

School, Home Day. Educational activities consisting of a defined curriculum with the purpose of satisfying the state educational requirements and said educational activities being conducted in a home but not necessarily the home of the student living therein. There shall be no more than 6 unrelated students not living in the home in which the educational activities are being conducted. The total number of students living in the home in which the activities are being conducted shall not exceed 12 at any given time.

School, Institution, Rehabilitation, and Training Center. A facility that provides rehabilitation and training operated or sponsored by chartered educational, religious, or philanthropic organizations, but excluding uses such as trade schools, which are operated primarily on a commercial basis.

School, Nursery. An establishment providing for the care, supervision, and protection of children.

School, Primary or Secondary. A public or private facility that provides a curriculum of elementary or secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools.

School, Vocational. A secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the state requirements of a vocational facility.

Shoe Repair. An establishment offering shoe repair service to the general public.

Sign Shop, Painted or Silkscreened. A retail business offering signs and banners for sale.

Skating Rink. An establishment that provides facilities for participant ice or roller skating.

Stable, Commercial. A building designed for the keeping of horses or mules used for pleasure riding or driving, for boarding, or for hire, including a riding track.

Stable, Private. A building designed for the keeping of horses or mules owned by the occupants of the premises and not kept for remuneration, hire, or sale.

Stockyard. An area designed to receive and transfer large quantities of livestock, containing a number of holding pens, loading and unloading areas, ramps, and other facilities required for the handling of large quantities of livestock.

Stone Monument Sales. A retail establishment offering for sale stone monuments produced off-premises, excluding cutting of slabs.

Storage and Warehousing Establishment. A facility that is constructed such that large quantities of products or goods may be stored for extended periods of time. Said facility may be equipped with loading ramps and docks that facilitate the loading and off-loading of semi-trailer vehicles.

Storage Yard. Facilities to store any equipment, machinery, building materials, or commodities, including raw, semi-finished, and finished materials outside at ground level.

Studio. A facility for professional work or teaching of any form of commercial or fine arts, photography, music, drama, dance, but not including commercial gymnasium or dance hall.

Swimming Pool, Water Park, Commercial. A swimming pool and accessory facilities, not part of the municipal or public recreation system, and not a private swim club, but where the facilities are available to the general public for a fee.

Swimming Pool, Private. A swimming pool and accessory facilities constructed for the exclusive use of the proprietor, when located in other than the minimum front yard.

Tattoo Parlor/Body Piercing Studio. An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

Taxidermist Shop. An establishment offering the services of taxidermy.

Taxidermist Studio. A retail establishment offering for sale to the public the products produced by a taxidermist at a separate location.

Telephone Exchange, Switching, or Relay. A facility for the exchange, switching, relaying, or transmission of telephone services, not including public office facilities, storage, or repair facilities.

Textile Manufacturing. Includes knitting, weaving, printing, and finishing of textiles and fibers into fabric goods[.]

Theater, Indoor Motion Picture. An establishment offering motion pictures for viewing by the public.

Tobacco Shop. A retail establishment offering for sale to the public tobacco products and accessories.

Utility Building and Structures. Operations such as power substations, water tanks or reservoirs, water or sewage treatment plants, also including supportive structures such as pump and lift stations.

Veterinarian Office, Large Animal Practice. The offices of a doctor of veterinary medicine with on-site treatment of large domestic animals, which may consist of livestock and/or other farm animals and may include outside treatment pens, shelters, or barns.

Veterinarian Office, Small Animal Practice. The offices of a doctor of veterinary medicine with on-site treatment of small domestic animals, which consist primarily of household pets and animals that are not sheltered in pens or barns (excluding dog runs and pens).

Veterinary Hospital with Outside Pens. An office and clinic of a doctor of veterinary medicine for small domestic animal practice including outside treatment pens.

Veterinary Hospital without Outside Pens. An office and clinic of a doctor of veterinary medicine for small domestic animal practice, without outside treatment pens.

Video/Game Rental. A commercial establishment that provides as a service a library of video movies and video games which may be rented on a short-term basis and returned for reuse.

Warehousing and Freight Office and Storage. A use engaged in storage, wholesale sales, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions.

Watch and/or Jewelry Sales and Repair. An establishment offering watches and jewelry for sale to the public, and offering repair services for jewelry, watches, and similar items.

Welding or Machine Shop. A facility for the machining and welding of metals, not including forging or structural welding.

Wind Turbine Generator: A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:

- (1) A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind kinetic energy into electrical energy



- (2) A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.
- (3) A generator, alternator, or other device used to convert the mechanical energy transferred by the rotation of the rotor into electrical energy.

Wind turbine generator shall include:

Small Wind Turbine. A wind turbine device with a maximum output of 1,500 Watts, measuring no more than ten (10) feet in length, 100 pounds in weight and using individual blades of no more than six (6) feet in length.

Large Wind Turbine. A wind turbine device with a maximum output of more than 1,500 Watts, measuring more than ten (10) feet in length, 100 pounds in weight and using individual blades of greater than six (6) feet in length.

Wireless Transmission or Receiving Facility. A structure or structures supporting antennas and/or commercial satellite antenna dishes which are transmitting or receiving any portion of the radio spectrum including wireless communication facilities, but excluding noncommercial antenna installations for home use of radio or television. See Section 30, Wireless Communications Facilities.

### 43.3 WIRELESS COMMUNICATIONS FACILITIES DEFINITIONS

The following definitions shall apply.

Antenna: A device used in communications which transmits or receives radio signals.

Antenna, building attached: Antenna attached to existing structures in two general forms: (1) roof-mounted, in which antennas are placed on the roofs of buildings, or (2) building-mounted, in which antennas are mounted to the sides of buildings. These antennas can also be mounted on structures such as water tanks, billboards, church steeples, electrical transmission towers, etc.

Antenna facility: A building or independent support structure and the antennas mounted thereon, along with an associated and necessary equipment building.

Antenna, microwave: Also known as “dish” antenna. A dish-shaped antenna used to link communications sites together by wireless transmission of voice or data, utilizing electromagnetic radiation frequencies from 3 GHz to 300 GHz; and using relatively low transmitter power levels when compared to other forms of transmission.

Antenna, panel: Also known as “directional” antenna. An antenna or array of antennas designed to concentrate a radio signal in a particular area. Panel antenna are typically flat, rectangular devices approximately six square feet in size.

Antenna, whip: Also known as “omnidirectional antenna.” Shaped cylindrically, whip antennas have diameters between two and six inches, and measure between one and eighteen feet in height. They are used to emit signals in a 360-degree horizontal plane and a compressed vertical plane.

Co-location: The act of locating wireless communications equipment from more than one provider on a single antenna facility.

Equipment storage: A small unmanned, single-story equipment building less than 500 square feet in size used to house radio transmitters and related equipment.

Lattice tower: A tower having three or four support steel legs and holding a variety of antennas. These towers range from 60 to 200 feet in height and can accommodate a variety of users.

Monopole: An antenna facility composed of a single spire used to support communications equipment. No guy wires are used or permitted.

Satellite receive-only antenna: An antenna that enables the receipt of television signals transmitted directly from satellites to be viewed on a television monitor. Such antennas are commonly known as a satellite dish, television receive-only antenna, dish antenna, parabolic antenna or satellite earth station antenna.

Stealth Facility: An antenna facility that is virtually transparent or invisible to the surrounding neighborhood. Stealth facilities may include totally enclosed antennas, wireless facilities that replicate or duplicate the construction of common structures such as flagpoles, and camouflaged wireless facilities that are constructed to blend into the surrounding environment.

(Ordinance 2010-01-149 adopted 1/19/10)

# CHAPTER 10

## STREETS, PARKS AND OTHER PUBLIC WAYS AND PLACES

ARTICLE 10.01 GENERAL PROVISIONS .....	10-7
ARTICLE 10.02 STREETS AND SIDEWALKS.....	10-7
Sec. 10.02.001 Street width .....	10-7

[Next page is 10-7.]



**ARTICLE 10.01 GENERAL PROVISIONS**

**(Reserved)**

**ARTICLE 10.02 STREETS AND SIDEWALKS\***

**Sec. 10.02.001 Street width**

(a) Each street in a residential neighborhood that has thirty-five (35) or less residences on it shall be twenty-eight (28) feet wide.

(b) Any residential street with more than thirty-five (35) residences shall be forty (40) feet wide.

(Ordinance 2005-05-105 adopted 5/24/05; Ordinance 2006-06-113 adopted 9/19/06)

---

\* **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.



# CHAPTER 11

## TRAFFIC AND VEHICLES

ARTICLE 11.01 GENERAL PROVISIONS .....	11-7
Sec. 11.01.001 Engine brakes .....	11-7
Sec. 11.01.002 Blocking or obstructing intersection .....	11-7
Sec. 11.01.003 Location of vehicles for sale .....	11-7
ARTICLE 11.02 PARKING .....	11-8
Sec. 11.02.001 Parking near water towers .....	11-8
ARTICLE 11.03 COMMERCIAL VEHICLES .....	11-8
Division 1. Generally .....	11-8
Division 2. Weight Limits .....	11-8
Sec. 11.03.031 Limits established; exceptions.....	11-8
Sec. 11.03.032 Permit required; fee .....	11-9
Sec. 11.03.033 Loads over 50,000 pounds .....	11-9
Sec. 11.03.034 Posting of signs .....	11-9
Sec. 11.03.035 Penalty.....	11-9

[Next page is 11-7.]





**ARTICLE 11.01 GENERAL PROVISIONS\***

**Sec. 11.01.001 Engine brakes**

(a) Prohibited noise. A person commits an offense if he or she makes, causes to be made, or allows to be made the prohibited noise in the city, from the following activity: Operation of the engine of a motor vehicle, as defined in the Texas Transportation Code, so as to assist in braking or slowing the vehicle through the use of gears or through the use of any engine brake or engine retarding device, commonly referred to as a “engine” brake, or by any other method which produces any noise in addition to the normal operating engine noise, on any street or public highway within the city.

(b) Penalty. Any person, firm or corporation violating any of the provisions or terms of this section shall be subject to a penalty as provided for in section 1.01.009, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

(Ordinance 2009-03-142 adopted 2/17/09)

**Sec. 11.01.002 Blocking or obstructing intersection**

(a) Prohibition. No person shall block or obstruct an intersection in any manner.

(b) Penalty. Any person, firm or corporation violating any of the provisions or terms of this section shall be subject to a fine in accordance with the general penalty provided in section 1.01.009 of this code, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

(Ordinance 2005-02-102 adopted 3/10/05; Ordinance adopting Code)

**Sec. 11.01.003 Location of vehicles for sale**

(a) Placing in right-of-way prohibited. The placing of vehicles in the right-of-way for sale is hereby prohibited. The cars must be placed on property owned by the person selling the vehicle.

(b) Property with more than one vehicle for sale. If property has more than one vehicle for sale, it must be zoned and operating as an auto sales business.

(c) Penalty. Any person, firm or corporation violating any of the provisions or terms of this section shall be subject to a penalty as provided for in section 1.01.009, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

(Ordinance 2008-04-134 adopted 6/24/08)

---

\* **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 11.02 PARKING\***

**Sec. 11.02.001 Parking near water towers**

It shall be prohibited to park a vehicle within one thousand (1,000) feet of the water towers located on Hilltop Trail between the hours of 8 p.m. and 6 a.m. (Ordinance 2008-09-139 adopted 11/20/08)

**ARTICLE 11.03 COMMERCIAL VEHICLES**

**Division 1. Generally**

**Secs. 11.03.001–11.03.030 Reserved**

**Division 2. Weight Limits**

**Sec. 11.03.031 Limits established; exceptions**

(a) No person shall drive as defined by state law, a motor vehicle (hereinafter referred to as “vehicle”) that is over:

- (1) 18,000 pounds on any HMA paved city street. Exempt from this weight limit are vehicles being used for agricultural purposes and motor homes or travel trailers that can be defined as any vehicular, portable structure designed as a temporary dwelling for travel, recreational and vacation uses, and includes folding hardtop campers transported behind a motor vehicle, truck-mounted campers attached to and transported behind a motor vehicle, a camper, converted bus, tent trailer, tent or similar device used for temporary portable housing, or a similar type of temporary dwelling intended for short-term occupancy, travel, and/or recreation.
- (2) 56,000 pounds on any gravel road within the city limits which is not privately owned. The exception to this is if a particular company is willing to maintain the road.
- (3) 18,000 pounds for any existing oil penetration roads, and 18,000 pounds for any oil penetration roads constructed after the passing of this section.

(b) Any company operating on gravel city streets that creates a heavy traffic load, more than six vehicles from that company per hour, shall water the road to keep substantial dust clouds from forming when deemed necessary by the city.

(Ordinance 2002-02-081, sec. 1, adopted 10/29/02)

---

\* **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.; privileged parking for persons with disabilities, V.T.C.A., Transportation Code, ch. 681; presumption that owner of vehicle is responsible for offense, V.T.C.A., Transportation Code, sec. 545.308.

**Sec. 11.03.032 Permit required; fee**

Any loads between 18,000 pounds to 25,000 pounds on HMAC and/or oil penetration roads shall require a permit [fee] as set forth in the fee schedule in appendix A of this code. Any loads between 25,000 pounds and 50,000 pounds shall require a permit [fee] as set forth in the fee schedule in appendix A of this code allowing travel to and from one destination. (Ordinance 2002-02-081, sec. 2, adopted 10/29/02; Ordinance adopting Code)

**Sec. 11.03.033 Loads over 50,000 pounds**

Any loads exceeding 50,000 pounds on HMAC and oil penetration roads and over 56,000 pounds on gravel roads shall require an overload permit and videotape of the road prior to use of road. Any damage to the road will be made at the operator's expense. A one hundred thousand dollar (\$100,000.00) bond shall be required to obtain a permit. (Ordinance 2002-02-081, sec. 3, adopted 10/29/02)

**Sec. 11.03.034 Posting of signs**

An authorized agent of the city may post signs on appropriate locations along the above-described roads indicating the required limits. (Ordinance 2002-02-081, sec. 4, adopted 10/29/02)

**Sec. 11.03.035 Penalty**

An offense under this division is a misdemeanor punishable:

- (1) By a fine of \$150.00; on conviction of an offense involving a vehicle having a gross weight that is more than 5,000 but not more than 10,000 pounds heavier than the road's allowable gross weight, by a fine of \$500.00;
- (2) On conviction of an offense involving a vehicle having a gross weight that is more than 10,000 pounds heavier than the road's allowable gross weight, by a fine of \$1,000.00; or
- (3) On conviction before the first anniversary of the date of a previous conviction under this section, by a fine in an amount that is twice the amount specified by subsections (1) and (2).

(Ordinance 2002-02-081, sec. 5, adopted 10/29/02)



# CHAPTER 12

## UTILITIES

ARTICLE 12.01 GENERAL PROVISIONS .....	12-7
Sec. 12.01.001    Jurisdiction over utilities .....	12-7
Sec. 12.01.002    Jurisdiction over electric utility .....	12-7
ARTICLE 12.02 SOLID WASTE .....	12-7
Division 1. Generally .....	12-7
Sec. 12.02.001    Placing dumpsters or trash containers in right-of-way prohibited .....	12-7
Sec. 12.02.002    Landfills and similar operations .....	12-8
Division 2. Collection .....	12-8
Sec. 12.02.031    Purpose; franchise for collection service .....	12-8
Sec. 12.02.032    Definitions .....	12-9
Sec. 12.02.033    Service required .....	12-11
Sec. 12.02.034    Prohibitions .....	12-11
Sec. 12.02.035    Removal of unauthorized containers .....	12-12
Sec. 12.02.036    Residential customers .....	12-12
Sec. 12.02.037    Commercial customers .....	12-12
ARTICLE 12.03 WATER .....	12-13
Sec. 12.03.001    Plumbing requirements; location of water meter .....	12-13
ARTICLE 12.04 ON-SITE SEWAGE FACILITIES .....	12-14
Sec. 12.04.001    Enforcement of state rules .....	12-14
Sec. 12.04.002    Area of jurisdiction .....	12-14
Sec. 12.04.003    Compliance with state rules .....	12-14
Sec. 12.04.004    State rules adopted .....	12-14
Sec. 12.04.005    State rules incorporated by reference .....	12-14
Sec. 12.04.006    Local rules .....	12-14
Sec. 12.04.007    Certification of designated representative .....	12-15
Sec. 12.04.008    Fees .....	12-15
Sec. 12.04.009    Appeals .....	12-15
Sec. 12.04.010    Enforcement plan .....	12-15
Sec. 12.04.011    Relinquishment of authority .....	12-15
ARTICLE 12.05 WATER CONSERVATION PLAN .....	12-16
Sec. 12.05.001    Adoption .....	12-16

[Next page is 12-7.]



**ARTICLE 12.01 GENERAL PROVISIONS\***

**Sec. 12.01.001 Jurisdiction over utilities**

- (a) (1) The city has three (3) different water supply corporations operating within its corporate limits.
- (2) The city has never exercised original jurisdiction over utility rates, operations, and services of utilities within the incorporated limits of the municipality.
- (b) Pursuant to section 13.042 of the Texas Water Code, the city hereby elects to have the commission exercise exclusive original jurisdiction over the utility rates, operations, and services of utilities within the incorporated limits of the municipality.

(Ordinance 2012-03-165 adopted 4/17/12)

**State law reference**—Municipal jurisdiction over water and sewer utility rates, operations and services, V.T.C.A., Water Code, sec. 13.042.

**Sec. 12.01.002 Jurisdiction over electric utility**

The governing body of this municipality does hereby elect to have the public utility commission of the state exercise exclusive original jurisdiction over electric utility rates, operations, and services within the existing and future incorporated limits of this municipality. (Ordinance 1993-01-0004 adopted 1/11/93)

**State law reference**—Municipal jurisdiction over electric utility, V.T.C.A., Utilities Code, ch. 33.

**ARTICLE 12.02 SOLID WASTE†**

**Division 1. Generally**

**Sec. 12.02.001 Placing dumpsters or trash containers in right-of-way prohibited**

- (a) Prohibition. No person, property owner or occupant shall place a dumpster or trash container in the right-of-way.
- (b) Penalty. Any person, firm or corporation violating any of the provisions or terms of this section shall be subject to a fine in accordance with the general penalty provided in section 1.01.009 of this code, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

(Ordinance 2005-3-103 adopted 3/10/05; Ordinance adopting Code)

---

\* **State law references**—Municipal utilities generally, V.T.C.A., Local Government Code, ch. 552; miscellaneous powers and duties of utilities, V.T.C.A., Utilities Code, ch. 181.

† **State law references**—Municipal solid waste, V.T.C.A., Health and Safety Code, ch. 363; Solid Waste Disposal Act, V.T.C.A., Health and Safety Code, ch. 361.

**Sec. 12.02.002 Landfills and similar operations**

(a) Approval required. No property shall be used as a “landfill” within the boundaries of the city limits without prior approval of a unanimous vote of the city council. Herein, a landfill is defined as the operation of property with the purpose of collecting, handling, storing, treating, neutralizing, stabilizing, or disposing of solid waste.

(b) Penalty. Any person violating any of the provisions of this section shall, upon conviction, be fined in accordance with the general penalty provided in section 1.01.009 of this code, and each day and every day that the provisions of this section are violated shall constitute a separate and distinct offense.

(c) Definition. “Solid waste” means garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities.

(Ordinance 1992-02-0003 adopted 10/12/92; Ordinance adopting Code)

**Secs. 12.02.003–12.02.030 Reserved****Division 2. Collection****Sec. 12.02.031 Purpose; franchise for collection service**

(a) The accumulation of garbage, trash, rubbish, brush and other refuse on the premises of private residences, businesses, public and private institutions, or vacant lots and in the streets and alleys and on other property (“premises”) within the city constitutes a health hazard, fire hazard, safety hazard, public menace or nuisance and greatly increases the danger of the spread of infectious, contagious and epidemic diseases. The regulations of this division are adopted for the purpose of preserving and protecting the public health, safety and general welfare by requiring property owners, tenants, occupants and lessees to secure and maintain containers and receptacles of sufficient size and material for the deposit of garbage, trash, rubbish and recyclable materials for collection and removal at regular intervals and to maintain their premises free of accumulation thereof.

(b) The city provides for solid waste collection to residential and commercial customers through a franchise agreement with a designated provider. The city franchise agreement grants exclusive rights to the franchisee to provide collection, hauling and disposal of solid waste for residential and commercial customers, on the terms and subject to the conditions set forth below. This division establishes the responsibilities of residential and commercial customers regarding collection, transportation and disposal of solid waste.

(c) It shall be unlawful for any other person or entity other than the designated franchisee to provide municipal solid waste collection or disposal services to any single-family residential unit, commercial unit or multi-family residential unit for compensation within the city, or to make use of the public streets for solid waste or recycling collection purposes.

(Ordinance 2016-05-181, sec. 2, adopted --/16)



**Sec. 12.02.032 Definitions**

*Bulky waste.* Any solid waste not measuring in excess of either forty-eight (48) inches in length or fifty (50) pounds in weight, including, but not limited to, construction and demolition debris, refrigerators, stoves, washing machines, water tanks, chairs, couches and tree trimmings. Metal objects included in bulky waste will not exceed 50 lbs.

*Bundles.* Solid waste items not measuring in excess of either forty-eight (48) inches in length or fifty (50) pounds in weight, including, but not limited to, brush, newspapers and tree trimmings.

*Business day.* Any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to be closed in the city.

*Commercial unit.* Any non-manufacturing commercial facility that generates and accumulates municipal solid waste during, or as a result of, its business, including, but not limited to, restaurants, stores, warehouses, schools, recreational facilities, clubs and churches.

*Construction and demolition debris.* Solid waste resulting from construction or demolition activities or that is directly or indirectly the byproduct of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products and regardless of whether such solid waste is mixed with or constitutes recyclable materials. Construction and demolition debris does not include hazardous waste or municipal solid waste.

*Container.* Receptacles provided by the service provider for the collection of solid waste.

*Dumpster.* A container with 2 to 8 cubic yards of capacity.

*Franchise agreement.* The legal instrument that defines the exclusive rights and responsibilities of the private waste company that collects, hauls and disposes of solid waste within the city limits.

*Franchisee.* The private waste company that collects, hauls and disposes of solid waste within the city limits.

*Handicapped residential unit.* Any residential dwelling that is inhabited by persons, all of whom are physically handicapped to the extent that they are unable to place municipal solid waste at the curbside, and that generates and accumulates municipal solid waste. The identities of the members of a handicapped residential unit shall be certified by the city and agreed to by the franchisee.

*Hazardous waste.* Waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, or so classified by any federal or state statute, rule, order or regulation.

*Holidays.* The following days:

- (1) New Year's Day (January 1st).
- (2) Memorial Day.

- (3) Independence Day (July 4th).
- (4) Labor Day.
- (5) Thanksgiving Day.
- (6) Christmas Day (December 25th).

Industrial unit. Any manufacturing, mining or agricultural facility that generates and accumulates municipal solid waste during, or as a result of, its operations.

Laws. All applicable laws, rules, regulations, statutes, treaties, codes, ordinances, permits, certificates, orders and licenses of any governmental agency, and applicable judgments, decrees, injunctions, writs, orders or like action of any court, arbitrator or other administrative, judicial or quasi-judicial tribunal or agency of competent jurisdiction pertaining to any matters arising under this agreement or the franchises and privileges connected therewith.

Multi-family residential unit. Any residential dwelling that is designed for, and inhabited by, multiple-family units and that generates and accumulates municipal solid waste.

Municipal solid waste. Solid waste resulting from or incidental to municipal, community, commercial, institutional or recreational activities, industrial or manufacturing, mining, or agricultural operations regardless of whether such solid waste is mixed with or constitutes recyclable materials. Municipal solid waste does not include construction and demolition debris or hazardous waste.

Recyclable materials. A metal product or other item that has been recovered or diverted from the primary waste stream for purposes of reuse, recycling, and reclamation.

Recyclable metal materials. A metal product that is deemed as acceptable by the service provider, which has been recovered or diverted from the primary waste stream for purposes of reuse, recycling, and reclamation. Such materials may not be radioactive or contain freon or hazardous materials.

Residential unit. Any residential dwelling that is either a single-family residential unit or a multi-family residential unit.

Roll-off. A container with twenty (20) cubic yards, thirty (30) cubic yards or forty (40) cubic yards of capacity.

Roll-out. A container with ninety-six (96) gallons of capacity.

Single-family residential unit. Any residential dwelling that is designed for, and inhabited by, a single person or family unit and that generates and accumulates municipal solid waste, other than those which accumulate municipal solid waste into a 2-yard, 4-yard, 6-yard or 8-yard dumpster.

Solid waste. As defined by the EPA under 40 C.F.R. section 261.2(a)(1), or by the state under the Solid Waste Disposal Act, Health and Safety Code section 361.003(34) and (35).

TCEQ. The state commission on environmental quality.

Unacceptable waste. Includes, but is not limited to, hazardous waste, radioactive waste, medical waste, or any material defined in federal or state statutes or regulations as hazardous or toxic substances.

White goods. Any item not measuring in excess of either three (3) cubic feet in size or fifty (50) pounds in weight and that is manufactured primarily from metal, including, but not limited to, a bathtub, heater, hot water heater, refrigerator, sink or washer and dryer. White goods must be evacuated of all refrigerate oil.

(Ordinance 2016-05-181, sec. 3, adopted --/16)

### **Sec. 12.02.033 Service required**

All occupied residential units, industrial units and commercial units within the city shall be charged monthly for and shall receive solid waste collection and disposal services at intervals hereinafter established. (Ordinance 2016-05-181, sec. 4, adopted --/16)

### **Sec. 12.02.034 Prohibitions**

(a) Storage or accumulation of solid waste that is unsightly or a health or safety hazard is prohibited. No owner, lessee or occupant of any residential unit, industrial unit or commercial unit shall permit the accumulation of any solid waste or recyclable material on residential or commercial premises except in acceptable containers as defined herein. Proper storage of such materials between collection days is required to ensure prevention of littering and unsanitary conditions.

(b) It shall be unlawful for the owner, occupant or person in control of any premises to allow solid waste to be piled, placed or accumulated on any sidewalk, street or other right-of-way within the city limits.

(c) No person shall dump, throw or place any solid waste, ashes, grass cuttings, rock or any other material of any kind in or on any public street, alley, storm sewer, drainage structure, drainage channel or other public or private property in the city except for the designated collection location on the designated collection day.

(d) All hazardous waste must be disposed of in accordance with local, state and federal regulations.

(e) It shall be unlawful for any person to deposit any burning material (burning match, charcoal, embers, etc.) into any container used for disposal of solid waste.

(f) Meddling with solid waste containers or in any way pilfering, scattering contents or scavenging materials from such containers is prohibited by anyone other than the owner or resident of the premises where the container is located or law enforcement officials.

(g) No person shall place any solid waste into any container without the effective consent of the owner, tenant, lessee or occupant of the premises upon which said container is located.

(h) Residents are prohibited from setting out any solid waste that is generated from a nonresidential source to be collected as residential solid waste.

(Ordinance 2016-05-181, sec. 5, adopted --/16)

**Sec. 12.02.035 Removal of unauthorized containers**

All solid waste containers not meeting the requirements of this division shall be removed and disposed of by the city or its franchisee, and neither the city nor its franchisee shall be liable for the removal and disposal of the same. (Ordinance 2016-05-181, sec. 6, adopted --/16)

**Sec. 12.02.036 Residential customers**

(a) Service established. Single-family residential units existing on the effective date of the city's franchise agreement shall begin receiving services upon the effective date of the city's franchise agreement. Single-family residential units unoccupied or not existing on the effective date of the city's franchise agreement shall begin receiving services immediately upon being occupied.

(b) Charges for residential service. The charge for collecting solid waste from each single-family residential unit shall be in an amount established and as from time to time amended by ordinance or franchise agreement as adopted by the city council. The ordinance and amendments thereto shall be kept on file with the city secretary and shall be available for public inspection during regular business hours. A penalty may be charged for an overdue bill.

(c) Containers; placement for collection. Single-family residential units shall place solid waste in roll-out containers provided by the city's franchisee and shall place the roll-out containers for collection in accordance with all the provisions of the franchise agreement.

(d) Residential bulk waste collection. Single-family residential units may deliver bulky waste to the area designated by the city during city-wide clean-up events.

(e) Residential collection schedules.

- (1) Schedules for the collection of solid waste from single-family residential units shall be determined by the franchisee.
- (2) Complaints regarding missed collections shall be reported directly to the franchisee, as provided in the franchise agreement, as soon as the missed collection is discovered.

(Ordinance 2016-05-181, secs. 7-11, adopted --/16)

**Sec. 12.02.037 Commercial customers**

(a) Service established. Commercial units, industrial units and multi-family residential units existing on the effective date of the city's franchise agreement shall begin receiving services on the effective date of the city's franchise agreement. Commercial units and multi-family residential units unoccupied or not existing on the effective date of the city's franchise agreement shall begin receiving services immediately upon being occupied.

(b) Charges for commercial service. The charge for collecting solid waste from each commercial unit, industrial unit and each multi-family residential unit shall be in an amount established and as from time to time amended by ordinance or franchise agreement as adopted by the city council. The ordinance and amendments thereto shall be kept on file with the city secretary and shall be available for public inspection during regular business hours. A penalty may be charged for an overdue bill.

(c) Commercial rear-load collection service. It shall be the duty of the owner or the person otherwise in charge of commercial units and multi-family residential units within the city to cause all solid waste accumulated on said premises to be placed in a dumpster located so as to accommodate collection equipment. The city shall be the sole determinant of acceptable dumpster pads, locations, and screening.

(d) Commercial collection schedules.

- (1) Schedules for the collection of solid waste from commercial units, industrial units and multi-family residential units shall be determined by the franchisee.
- (2) Complaints regarding missed collections shall be reported directly to the franchisee, as provided in the franchise agreement, as soon as the missed collection is discovered.

(Ordinance 2016-05-181, secs. 12–15, adopted –/–/16)

## ARTICLE 12.03 WATER\*

### Sec. 12.03.001 Plumbing requirements; location of water meter

(a) Backflow prevention check valve. A backflow prevention check valve shall be installed in the water supply line between the water meter and the building. This is to prevent siphoning of the water from the hot water heater thus preventing a possible overheat condition that could be a possible fire hazard.

(b) Outside faucets. One (1) outside water faucet shall be installed on the street side of the building. One (1) outside water faucet shall be installed on the opposite side of the building from the street. Faucets shall be a type to accept a garden hose.

(c) Location of water meter. The water meter shall be located in the easement of the property that it serves.

(d) Enforcement. This section shall be a requirement for the issuance of an occupancy certificate.

(Ordinance 1998-08-0017 adopted 8/10/98)

---

\* **State law reference**—Water supply in type A municipality, V.T.C.A., Local Government Code, sec. 552.015.

**ARTICLE 12.04 ON-SITE SEWAGE FACILITIES\*****Sec. 12.04.001 Enforcement of state rules**

The city clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and will fully enforce chapter 366 of the THSC and chapters 7 and 37 of the Texas Water Code (TWC), and associated rules referenced in section 12.04.004 of this article. (Ordinance 2010-04-152, sec. 5, adopted 5/18/10)

**Sec. 12.04.002 Area of jurisdiction**

The rules shall apply to all the area lying within the incorporated limits of the city. (Ordinance 2010-04-152, sec. 6, adopted 5/18/10)

**Sec. 12.04.003 Compliance with state rules**

Any permit issued for an on-site sewage facility within the jurisdictional area of the city must comply with the rules adopted in section 12.04.004 of this article. (Ordinance 2010-04-152, sec. 7, adopted 5/18/10)

**Sec. 12.04.004 State rules adopted**

The rules, title 30 Texas Administrative Code (TAC) chapter 30, subchapters A and G, and chapter 285, promulgated by the TCEQ for on-site sewage facilities are hereby adopted, and all officials and employees of the city having duties under said rules are authorized to perform such duties as are required of them under said rules. (Ordinance 2010-04-152, sec. 8, adopted 5/18/10)

**Sec. 12.04.005 State rules incorporated by reference**

The rules, 30 TAC chapter 30, subchapters A and G, and chapter 285, and all future amendments and revisions thereto are incorporated by reference and are thus made a part of this article. (Ordinance 2010-04-152, sec. 9, adopted 5/18/10)

**Sec. 12.04.006 Local rules**

The city, wishing to adopt more stringent rules for its OSSF ordinance, understands that the more stringent local rule shall take precedence over the corresponding TCEQ requirement. Listed below are the more stringent rules adopted by the city:

- (1) Permit requirement. All on-site sewage facilities installed in the city must be permitted.
- (2) Maintenance requirements. Any on-site sewage disposal system using aerobic treatment and advanced treatment shall have a maintenance contract on that system. All contracted maintenance of an on-site sewage facility using aerobic treatment and advanced treatment shall be conducted by a TCEQ registered maintenance provider. There shall be no homeowner/property owner maintenance of an on-site sewage disposal system using aerobic treatment and advanced treatment unless the property

---

\* **State law reference**—On-site sewage disposal systems, V.T.C.A., Health and Safety Code, ch. 366.

owner/homeowner is certified by the manufacturer of that system or is an OSSF licensed maintenance provider who has been certified by the manufacturer for their system. Testing and reporting requirements specified in title 30, TAC, section 285.7 shall be in effect.

(Ordinance 2010-04-152, sec. 10, adopted 5/18/10)

**Sec. 12.04.007 Certification of designated representative**

The OSSF designated representative (DR) (30 TAC section 285.2(17)) of the city must be certified by the TCEQ before assuming the duties and responsibilities. (Ordinance 2010-04-152, sec. 11, adopted 5/18/10)

**Sec. 12.04.008 Fees**

All fees collected for permits and/or inspections shall be made payable to the city. A fee of \$10.00 will also be collected for each on-site sewage facility permit to be paid to the on-site wastewater treatment research council as required by the THSC, chapter 367. (Ordinance 2010-04-152, sec. 12, adopted 5/18/10)

**Sec. 12.04.009 Appeals**

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the city council. (Ordinance 2010-04-152, sec. 13, adopted 5/18/10)

**Sec. 12.04.010 Enforcement plan**

(a) The city clearly understands that, at a minimum, it must follow the requirements in 30 TAC section 285.71 (Authorized Agent Enforcement of OSSFs).

(b) This article adopts and incorporates all applicable provisions related to on-site sewage facilities, which includes, but is not limited to, those found in chapters 341 and 366 of the THSC, chapters 7, 26, and 37 of the TWC and 30 TAC chapter 30, subchapters A and G, and chapter 285.

(Ordinance 2010-04-152, sec. 14, adopted 5/18/10)

**Sec. 12.04.011 Relinquishment of authority**

(a) If the city council decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the city council, as the authorized agent, and the TCEQ shall follow the procedures outlined in 30 TAC section 285.10(d)(1) through (4).

(b) After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 TAC section 285.10(d)(5) and section 285.14 after the date that delegation has been relinquished.

(Ordinance 2010-04-152, sec. 16, adopted 5/18/10)

**ARTICLE 12.05 WATER CONSERVATION PLAN**

**Sec. 12.05.001 Adoption**

The water conservation plan established by Ordinance 1999-29-0056 is adopted by reference. A copy of the plan is available for public inspection at the city offices. (Ordinance adopting Code)



# APPENDIX A

## FEE SCHEDULE

ARTICLE A1.000 MISCELLANEOUS FEES .....		A-7
Sec. A1.001	Administration fees .....	A-7
Sec. A1.002	Health permits .....	A-7
Sec. A1.003	In-home child care registration.....	A-7
Sec. A1.004	Grading permit .....	A-7
Sec. A1.005	Contractor registration.....	A-7
Sec. A1.006	Alcoholic beverage license or permit.....	A-7
Sec. A1.007	Administrative fee for abatement of garbage, trash or junk by city .....	A-8
Sec. A1.008	Permit for overweight vehicle .....	A-8
ARTICLE A2.000 BUILDING AND DEVELOPMENT RELATED FEES .....		A-8
Sec. A2.001	Building permits and inspections .....	A-8
Sec. A2.002	New commercial buildings - step rates .....	A-10
Sec. A2.003	Fire permits .....	A-10
Sec. A2.004	Oil and gas construction permit or seismic survey.....	A-11
Sec. A2.005	Hydrocarbons well permit application and appeal fee .....	A-11
Sec. A2.006	Platting, subdivision and zoning fees .....	A-11
Sec. A2.007	Pre-occupancy inspection.....	A-12
Sec. A2.008	Permit for excavation, site preparation, etc. ....	A-12
Sec. A2.009	Permit for installation of utility line, pipeline or telecommunication transmission path .....	A-12
ARTICLE A3.000 MUNICIPAL COURT FEES .....		A-12
Sec. A3.001	Building security fund fee .....	A-12

[Next page is Appendix A-7.]



**ARTICLE A1.000 MISCELLANEOUS FEES**

**Sec. A1.001 Administration fees**

Use of credit/debit card	3% of total amount due
City maps	\$1.00
Copies	\$1.00 for 1st page + \$0.10 per additional page
Diskette	\$1.00 per copy
Large base map	\$50.00
Miscellaneous supplies	Actual cost
Other	Actual cost
Outsourced/contracted services	Actual cost
Personnel charge	\$18.75 per hour
Photographs	Actual cost
Postage and shipping	Actual cost
Public fax	\$3.00 per page (send/receive)
Returned check fee	\$30.00

No sales tax will be applied to copies of public information.

(Ordinance adopted 11/--/19)

**Sec. A1.002 Health permits**

Health permits: Food service establishments, retail food store, mobile food vending, concessions/unit, roadside food vendor: \$200.00. (Ordinance adopted 11/--/19)

**Sec. A1.003 In-home child care registration**

In-home child care registration: \$50.00. (Ordinance adopted 11/--/19)

**Sec. A1.004 Grading permit**

Grading permit: \$100.00. (Ordinance adopted 11/--/19)

**Sec. A1.005 Contractor registration**

Contractor registration form: \$75.00 annually. (Ordinance adopted 11/--/19)

**Sec. A1.006 Alcoholic beverage license or permit**

There is hereby levied, pursuant to V.T.C.A., Alcoholic Beverage Code section 11.38, a schedule of fees for a license or permit issued for premises located within the city under the Alcoholic Beverage Code, which fees shall be equal to one-half (1/2) of the fee assessed by the state for each license or permit pursuant to the Alcoholic Beverage Code. (Ordinance 2003-04-090, exh. A, sec. 4.7, adopted 5/13/03; Ordinance adopting Code)

**Sec. A1.007 Administrative fee for abatement of garbage, trash or junk by city**

The costs for work by the city under section 7.02.001 shall include an administrative fee of fifty dollars (\$50.00). (Ordinance 1998-05-0014, sec. 4-3.1, adopted 3/9/98)

**Sec. A1.008 Permit for overweight vehicle**

Any loads between 18,000 pounds to 25,000 pounds on HMAC and/or oil penetration roads shall require a permit fee of one hundred dollars (\$100.00). Any loads between 25,000 pounds and 50,000 pounds shall require a permit fee of one hundred dollars (\$100.00) allowing travel to and from one destination. (Ordinance 2002-02-081, sec. 2, adopted 10/29/02)

**ARTICLE A2.000 BUILDING AND DEVELOPMENT RELATED FEES**

**Sec. A2.001 Building permits and inspections**

All permits expire 180 days after date of issuance.

<b>Building Permit Description</b>	<b>Fee</b>
Accessory building - Residential [or Commercial]	\$100.00 residential or commercial
Finish out mixed use - Residential	\$1.00 per sf
Finish out mixed use - Commercial	Commercial step rate
Add/alt/finish - Residential	\$1.00 per sf
Add/alt/finish - Commercial	Commercial step rate
Building - New construction - Residential	Flat rate \$600.00 + \$0.50 per sf
Building - New construction - Commercial	Commercial step rate
Building - New construction - Apartment	Commercial step rate
Plan review	50% of new construction permit fee
OSSF - Septic permit package	\$410.00
Carport/canopy/patio cover	\$100.00
Commercial flat work parking lot	\$100.00
Concrete patio/sidewalks	\$50.00
Construction trailer	\$100.00
Culvert permit	\$50.00 residential \$100.00 commercial
Curb cut - Established driveway	\$100.00 residential \$200.00 commercial
Deck > 30" above grade	\$45.00
Demolition - Entire building	\$50.00
Demolition - Interior	\$50.00
Demolition - Pool	\$50.00

<b>Building Permit Description</b>	<b>Fee</b>
Electrical	\$50.00 residential \$100.00 commercial
Fence	\$50.00 residential \$100.00 commercial
Food service establishments (temp)	\$50.00 per event + \$10.00 booth operation
Foundation repair	\$45.00
Garage sale	Free
Gas test	\$50.00 residential \$100.00 commercial
HVAC	\$50.00 residential \$100.00 commercial
Irrigation	\$100.00 residential \$150.00 commercial
Mechanical	\$50.00 residential \$100.00 commercial
Move in - Manufactured home	\$1,000.00 + Truck fee
Move in - Truck	\$100.00 per truck
New construction shell - Mixed use building	Commercial step rate
Plumbing	\$50.00 residential \$100.00 commercial
Re-inspection fee	\$100.00 residential \$200.00 commercial
Retaining wall > 48" tall	\$45.00
Roof	\$50.00 residential \$200.00 commercial
Sales trailer	\$100.00
Screening wall	\$100.00
Shell building	Commercial step rate
Siding	\$45.00
Sign - Banner	\$50.00
Sign - Permanent	\$100.00
Solar panels	\$70.00
Special event	\$25.00
Swimming pool	\$50.00 residential \$200.00 commercial
Utility - Electric release	Free
Utility - Water release	Free
Water heater	\$50.00 residential \$100.00 commercial
Water well in city limits	\$200.00
Window replacement	\$45.00

(Ordinance adopted 11/--/19)

**Sec. A2.002 New commercial buildings - step rates**

<b>New Commercial Buildings - Step Rates</b>	
<b>Total Valuation</b>	<b>Permit Fee</b>
\$1.00 to \$5,000.00	\$110.00
\$5,001.00 to \$10,000.00	\$130.00
\$10,001.00 to \$25,000.00	\$130.00 for 1st \$10,000.00 + \$14.00 per each additional \$1,000.00
\$25,001.00 to \$50,000.00	\$303.00 for 1st \$25,000.00 + \$12.12 per each additional \$1,000.00
\$50,001.00 to \$100,000.00	\$421.25 for 1st \$50,000.00 + \$10.10 per each additional \$1,000.00
\$100,001.00 to \$500,000.00	\$1,023.75 for 1st \$100,000.00 + \$5.60 per each additional \$1,000.00
\$500,001.00 to \$1,000,000.00	\$3,263.75 for 1st \$500,000.00 + \$4.75 per each additional \$1,000.00
\$1,000,001.00 and up	\$5,638.75 for 1st \$1,000,000 + \$3.15 per each additional \$1,000.00

(Ordinance adopted 11/--/19)

**Sec. A2.003 Fire permits**

<b>Fire Permit Description</b>	<b>Fee</b>
Access control	\$50.00
Alarm system	\$100.00 per floor + \$2.00 per device
Christmas tree lot	\$50.00
Explosives and blasting	\$50.00
Fixed extinguishing system	\$75.00 per system
Flammable/combustible liquid/tanks	\$50.00
Fumigation/thermal insect fog	\$50.00
Hydrant flow test	\$50.00
Liquid petroleum gases	\$25.00
Mechanical trench burn	\$200.00 per day
Places of assembly	\$50.00
Sprinkler system - New	\$125.00 per riser/system + \$0.012 per sf
Sprinkler system - Remodel - Between 0-40 heads	\$50.00
Sprinkler system - Remodel - 41 or more heads	\$100.00
Standpipe system	\$100 per system
Tents/canopies/air supported	\$50.00
Underground sprinkler system	\$50.00

(Ordinance adopted 11/--/19)

**Sec. A2.004 Oil and gas construction permit or seismic survey**

- (a) Oil and gas construction permit: \$5,000.00 per well, per bore.
- (b) Seismic survey: \$1,000.00.

(Ordinance adopted 11/--/19)

**Sec. A2.005 Hydrocarbons well permit application and appeal fee**

- (a) Application fee. An application for a hydrocarbons well permit shall be accompanied by a permit fee of two thousand five hundred dollars (\$2500.00).
- (b) Appeal fee. The appeal fee shall be three hundred dollars (\$300.00).

(Ordinance 2003-02-088, secs. 5, 17, adopted 4/22/03)

**Sec. A2.006 Platting, subdivision and zoning fees**

Annexations	\$500.00 plus direct expenses of professional consultants for review of application and submitted material
Concept plan	\$500.00
Final plat - Commercial	\$400.00 plus \$50.00 per acre plus direct expenses of professional consultants for review of application and submitted material
Final plat - Residential	\$400.00 plus \$10.00 per lot for the first 10 lots and \$7.00 per each additional lot plus \$20.00 per acre for acres not platted into lots plus direct expenses of professional consultants for review of application and submitted material
Planned development	\$1000.00 per PD plus direct expenses of professional consultants for review of application and submitted material
Plat abandonment	\$200.00
Plat revision	\$300.00 plus direct expenses of professional consultants for review of application and submitted material
Plat revision notice	\$20.00 per notice
Preliminary plat - Commercial	\$700.00 plus \$50.00 per acre plus direct expenses of professional consultants for review of application and submitted material
Preliminary plat - Residential	\$700.00 plus \$20.00 per lot for the first 10 lots and \$7.00 per each additional lot plus \$25.00 per acre for areas not platted into lots plus direct expenses of professional consultants for review of application and submitted material
Replat	\$100.00 plus \$2.00 per lot plus direct expenses of professional consultants for review of application and submitted material
Refunding of fees	The city secretary may refund moneys collected as fees, if the application is withdrawn and no expenses have been incurred by the city on the applicant's behalf. Written request is required within ten (10) days by the applicant for the city secretary to refund any inadvertent overcharges.

Resubmitted final plat	\$50.00 plus direct expenses of professional consultants for review of application and submitted material
Resubmitted preliminary plat	\$50.00 plus direct expenses of professional consultants for review of application and submitted material
Specific use permit	\$400.00
Variance	\$400.00 per variance plus \$50.00 for each additional variance request within the same application plus direct expenses of professional consultants for review of application and submitted material
Zoning change	\$400.00 plus direct expenses of professional consultants for review of application and submitted material

(Ordinance adopted 11/–/19)

**Sec. A2.007 Pre-occupancy inspection**

The fee for the pre-occupancy inspection required by section 4.01.002 is fifty dollars (\$50.00). If the system does not pass inspection, such person will be required to pay the inspection fee of fifty dollars (\$50.00) for each trip made to the home site. (Ordinance 1997-02-0008 adopted 7/31/97)

**Sec. A2.008 Permit for excavation, site preparation, etc.**

The permit fee for excavations and other work under article 4.08 shall be computed on the gross value of the project:

1% (one percent)

(Ordinance 2003-08-094 adopted 1/13/04)

**Sec. A2.009 Permit for installation of utility line, pipeline or telecommunication transmission path**

The permit fee for installation of utility lines, pipelines and telecommunication transmission paths under article 4.09 shall be computed on the gross value of project:

- (1) 1% of \$2,500.00 to \$100,000.00.
- (2) 1/2% for additional \$100,000.00 to \$200,000.00.
- (3) 1/4% for additional \$200,001.00 and up.

(Ordinance 1999-33-0060, sec. 1(II), adopted 12/13/99)

**ARTICLE A3.000 MUNICIPAL COURT FEES**

**Sec. A3.001 Building security fund fee**

The building security fund shall be funded by a \$3.00 charge on each person convicted in trial for a misdemeanor offense in the municipal court. (Ordinance 1998-11-0020 adopted 8/10/98)



## APPENDIX B

### ORDINANCE DISPOSITION TABLE

This table shows the location or gives the disposition of the ordinances within the New Fairview Code of Ordinances. The abbreviation “NIC” means the ordinance is not included in this code, though not necessarily repealed. In the “Supp. No.” column, the letters “CA” indicate the ordinance was published in the original code as adopted. When an ordinance has been added as part of a code supplement, the supplement number will be added accordingly.

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
1991-01-001	--/91	Approves Denton County Electric Cooperative rate schedule	NIC	CA
1991-02-002	7/22/91	Disannexation	NIC	CA
1992-01-002	1/13/92	Grants franchise	NIC	CA
1992-02-0003	10/12/92	Prohibits landfills	Sec. 12.02.002	CA
1993-01-0004	1/11/93	Grants public utility commission jurisdiction over electrical utility rates	Sec. 12.01.002	CA
1996-02-006	3/11/96	Assessment of maintenance tax for landowners adjacent to paved roadways	NIC Rpld. by Ord. 1998-15-0024	CA
1997-01-007	4/14/97	Natural gas drilling	Superseded by Ord. 1999-07-0034	CA
1996-01-0005	7/14/97	Subdivision ordinance		
		Art. 1 General provisions	Rpld. by Ord. 2011-03-161	CA
		Art. 2 General subdivision development procedure	Rpld. by Ord. 2011-03-161	CA
		Art. 3 Preliminary plat	Rpld. by Ord. 2011-03-161	CA
		Art. 4 Final plat and construction documents	Rpld. by Ord. 2011-03-161	CA
		Art. 5 Construction	Ch. 9, exhibit A, art. V	CA
		Art. 6 Design criteria	Replaced by TCSS Manual	CA
		Art. 7 Construction standards	Replaced by TCSS Manual	CA
1997-02-0008	7/31/97	Preoccupancy inspection	Secs. 4.01.002, A2.007	CA
1998-03-0012	12/7/97	On-site sewage disposal	Superseded by Ord. 1999-21-0048	CA
1998-01-0010	2/9/98	Grants electric franchise	NIC	CA
1998-02-0011	2/9/98	Approves Texas Utilities Electric Company rates	NIC	CA
1998-04-0013	3/9/98	Calls sales and use tax election	NIC	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
1998-05-0014	3/9/98	City-wide nuisances		
		Chapter 1 General Provisions		
		Sec. 1-1 Definitions and rules of construction	Sec. 1.01.004	CA
		Sec. 1-2 Certain ordinances not affected by code	Sec. 1.01.010	CA
		Sec. 1-3 Severability of parts of code	Superseded by Ordinance adopting Code	CA
		Sec. 1-4 Procedure for enforcement of code	Sec. 2.01.002	CA
		Sec. 1-5 General penalty	Superseded by Ordinance adopting Code	CA
		Chapter 2 Animals		
		Sec. 2-1 Definitions	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-2 Confinement of stray animals by individual	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-3 Animals running at large—Prohibited	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-4 Breeding of certain animals prohibited	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-5 Herding prohibited	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-6 Keeping of certain livestock	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-6 [sic] Enclosure requirements for keeping certain animals	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-7 Killing of birds	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-8 Injuring, capturing or killing animals on public property	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-9 Keeping of fowl	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-10 Abandonment and confinement of animals	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-11 Animal noise, waste, keeping of bees	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-12 Vaccination of dogs and cats	Superseded by Ord. 2000-13-0073	CA
		Sec. 2-13 Disposal of dead animals	Superseded by Ord. 2000-13-0073	CA
		Chapter 4 Nuisances		
		Article I In General		
		Sec. 4-1 Noise	Sec. 8.03.001	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
1998-05-0014, cont'd.		Sec. 4-2 Odors	Sec. 8.04.001	CA
		Sec. 4-3 Garbage, trash and rubbish nuisances—Generally	Sec. 7.02.001(a)	CA
		Sec. 4-3.1 Same—Notice to owner of violations; abatement by city; collection of costs; appeals	Secs. 7.02.001, A1.007	CA
		Sec. 4-4 Owner responsibility to remove heavy accumulation of debris	Sec. 7.02.002	CA
		Sec. 4-5 Duty to keep sidewalk, parkway and alleyway clean—Generally	Sec. 7.02.003	CA
		Article II Abandoned Property		
		Sec. 4-6 Definitions	Sec. 8.05.001	CA
		Sec. 4-7 Authority to take possession of abandoned motor vehicles	Sec. 8.05.002	CA
		Sec. 4-8 Notification of owner and lienholders of abandoned vehicle	Sec. 8.05.003	CA
		Sec. 4-9 Procedures for abating nuisance; exception	Sec. 8.05.004	CA
		Sec. 4-10 Disposal of junked vehicles	Sec. 8.05.005	CA
		Sec. 4-11 Enforcement	Sec. 8.05.006	CA
		Article III Grass and Weeds		
		Sec. 4-12 Height limitations on certain weeds, grass and uncultivated vegetation	Sec. 7.02.004	CA
1998-07-0016	6/9/98	Accepts city boundaries and map	NIC	CA
1998-06-0015	6/9/98	Amends subdivision ordinance		
		Amends sec. 1.12; date	Rpld. by Ord. 2011-03-161	CA
		Amends sec. 3.05; property information	Rpld. by Ord. 2011-03-161	CA
		Amends sec. 3.08; public and private utilities	Rpld. by Ord. 2011-03-161	CA
		Amends sec. 4.05; subdivision restrictions	Rpld. by Ord. 2011-03-161	CA
		Amends sec. 6.09; water	Replaced by TCSS Manual	CA
1998-09-0018	7/27/98	Abolishes office of city marshal and provides for designation of chief of police	Sec. 2.05.001	CA
1998-08-0017	8/10/98	Plumbing and water meters	Sec. 12.03.001	CA
1998-10-0019	8/10/98	Municipal court		
		Sec. I Municipal court established	Sec. 2.06.001	CA
		Sec. II Judges	Sec. 2.06.002	CA
		Sec. III Office of municipal court clerk established	Sec. 2.06.003	CA
		Sec. IV Official jail designated	Sec. 2.06.004	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
1998-11-0020	8/10/98	Municipal court building security funds	Secs. 2.06.031, A3.001	CA
1998-12-0021	8/10/98	Records management program		
		Sec. 1 Definitions	Sec. 2.07.001	CA
		Sec. 2 City records declared public property	Sec. 2.07.002	CA
		Sec. 3 Policy	Sec. 2.07.003	CA
		Sec. 4 Designation of records management officer	Sec. 2.07.004	CA
		Sec. 5 Establishment of records management committee	Sec. 2.07.005	CA
		Sec. 6 Records management plan to be developed; approval of plan; authority of plan	Sec. 2.07.006	CA
		Sec. 7 Records control schedules to be developed; approval; filing with state	Sec. 2.07.007	CA
		Sec. 8 Implementation of records control schedule; destruction of record under schedule	Sec. 2.07.008	CA
		Sec. 9 Destruction of unscheduled records	Sec. 2.07.009	CA
1998-16-0025	9/12/98	Limits dimensions of manufactured housing	Superseded by Ord. 2010-01-149	CA
1998-15-0024	9/14/98	Repeals Ord. 1996-02-006; assessment of maintenance tax for landowners adjacent to paved roadways	NIC	CA
1998-17-0026	10/10/98	Fee for moving homes	Superseded by Ord. adopted 11/-/19	CA
1998-18-0027	12/7/98	Adopts current edition of Robert's Rules of Order	Sec. 2.02.002	CA
1999-01-0028	1/11/99	Amends subdivision ordinance, sec. 2.02; fee schedule	Rpld. by Ord. 2011-03-161	CA
1999-02-0029	1/11/99	Amends Ord. 1998-009-0018; police department	Sec. 2.05.002	CA
1999-06-0033	4/12/99	Fire flows and spacing of fire hydrants	Rpld. by Ord. 1999-11-0038	CA
1999-07-0034	4/12/99	Drilling oil, gas and other wells	Rpld. by Ordinance adopting Code	CA
1999-08-0035	4/12/99	Adopts building codes	Rpld. by Ord. 1999-09-0036	CA
1999-09-0036	5/10/99	Abolishes Ord. 1999-08-035; building codes	NIC	CA
1999-10-0037	5/10/99	Interlocal agreement with county for sewerage facility inspections	NIC	CA
1999-11-0038	5/10/99	Abolishes Ord. 1999-06-033; fire flows and spacing of fire hydrants	NIC	CA
1999-12-0039	5/17/99	Amends subdivision ordinance; minimum size for lots		
		Amends sec. 1.12; date	Rpld. by Ord. 2011-03-161	CA
		Amends sec. 6.02; lots	Replaced by TCSS Manual	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
1999-13-0040	5/17/99	Amends subdivision ordinance; street standards		
		Amends sec. 1.12; date	Rpld. by Ord. 2011-03-161	CA
		Amends sec. 6.06; roads	Replaced by TCSS Manual	CA
1999-014-0041	6/2/99	Building permits		
		Sec. I Required	Sec. 4.01.001(a)	CA
		Sec. II Noncompliance; fees	Sec. 4.01.001(b)	CA
1999-015-0042	6/2/99	Fee schedule	Superseded by Ord. adopted 11/--/19	CA
1999-17-0044	7/12/99	Changes city name to City of New Fairview	Sec. 2.01.001	CA
1999-19-0046	7/12/99	Amends Ord. 1999-07-0034; oil, gas and other well permit fees	Rpld. by Ordinance adopting Code	CA
1999-18-0045	7/12/99	Adopts street names	NIC	CA
1999-20-0047	7/17/99	Zoning ordinance	Rpld. by Ord. 2010-01-149	CA
1999-21-0048	8/9/99	Amends Ord. 1998-03-0012; on-site sewage facilities	Superseded by Ord. 2010-04-152	CA
1999-22-0049	8/30/99	Amends subdivision ordinance, sec. 4.09; final plat	Rpld. by Ord. 2011-03-161	CA
1999-23-0050	8/30/99	Amends Ord. 1999-014-041; building permits; adds secs. V–VIII; time allowed to complete construction	Sec. 4.01.001(c)	CA
1999-24-0051	9/13/99	Adopts budget, FY 99-00	NIC	CA
1999-25-0052	9/13/99	Adopts street names	NIC	CA
1999-26-0053	9/20/99	Annexation	NIC	CA
1999-27-0054	10/4/99	Taxation of telecommunication services	Sec. 2.09.061	CA
1999-28-0055	10/10/99	Interlocal agreement with county for sewerage facility inspections	NIC	CA
1999-29-0056	11/8/99	Water conservation plan	NIC (On file)	CA
1999-30-0057	11/8/99	Public information charge schedule	Superseded by Ord. adopted 11/--/19	CA
1999-32-0059	11/8/99	Approves franchise agreement	NIC	CA
1999-04-0061	11/8/99	Amends subdivision ordinance, sec. 3.08; public and private utilities	Rpld. by Ord. 2011-03-161	CA
1999-33-0060	12/13/99	Placement of water or electric utility lines and/or pipelines and/or telecommunication transmission paths		
		Section 1		
		Applicability	Sec. 4.09.001	CA
		Sec. I Construction permits	Sec. 4.09.002	CA
		Sec. II Construction standards	Secs. 4.09.003, A2.009	CA
		Sec. III Conformance with public improvements	Sec. 4.09.004	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
1999-33-0060, cont'd.		Sec. IV Improperly installed facilities	Sec. 4.09.005	CA
		Sec. V Restoration of property	Sec. 4.09.006	CA
		Sec. VI Skipped		
		Sec. VII Revocation or denial of permit	Sec. 4.09.007	CA
		Sec. VIII Appeal from denial or revocation of permit	Sec. 4.09.008	CA
2000-03-0063	1/18/00	Amends electric franchise	NIC	CA
2000-01-0061	1/24/00	Mandatory city-wide waste disposal	Superseded by Ord. 2016-05- 181	CA
2000-02-0062	1/24/00	Construction and excavation		
		Sec. I Permit required	Sec. 4.08.001	CA
		Sec. II Regulations	Sec. 4.08.002	CA
		Sec. III Application for permit	Sec. 4.08.003	CA
		Sec. IV Schedule of fees	Amnd. by Ord. 2003-08-094	CA
		Sec. V Penalty	Amnd. by Ord. 2003-08-094	CA
		Sec. VI Time limits	Sec. 4.08.006	CA
		Sec. VII Refunding of fees	Sec. 4.08.007	CA
2000-04-0064	3/13/00	Emergency management		
		Sec. 1 Organization	Sec. 1.02.001	CA
		Sec. 2 Emergency management director; powers and duties	Sec. 1.02.002	CA
		Sec. 3 Emergency management plan	Sec. 1.02.003	CA
		Sec. 4 Interjurisdictional program	Sec. 1.02.004	CA
		Sec. 5 Override	Sec. 1.02.005	CA
		Sec. 6 Liability	Sec. 1.02.006	CA
		Sec. 7 Commitment of funds	Sec. 1.02.007	CA
		Sec. 8 Offenses; penalties	Sec. 1.02.008	CA
		Sec. 9 Severability	NIC	CA
		Sec. 10 Limitations	Sec. 1.02.009	CA
2000-05-0065	-/-/00	Pipeline and utility variance for Sprint	NIC	CA
2000-08-0068	-/-/00	Appoints code enforcement official	NIC	CA
2000-10-0070	7/10/00	Amends fee schedule	Superseded by Ord. adopted 11/-/19	CA
2000-11-0071	7/24/00	Amends subdivision ordinance		
		Amends sec. 1.12; date	Rpld. by Ord. 2011-03-161	CA
		Amends sec. 6.06; roads	Replaced by TCSS Manual	CA
		Amends sec. 7; construction standards	Replaced by TCSS Manual	CA
2000-12-0072	7/24/00	Amends subdivision ordinance		
		Sec. I Amends secs. 4.03, 4.05, 4.10; final plat and construction documents	Rpld. by Ord. 2011-03-161	CA
		Sec. II Amends sec. 6.06; design criteria	Replaced by TCSS Manual	CA
2000-13-0073	8/14/00	Animal control		
		Sec. I Definitions	Sec. 3.01.001	CA
		Sec. II Rabies	Sec. 3.01.005	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2000-13-0073, cont'd.		Sec. III At large	Sec. 3.01.006	CA
		Sec. IV Nuisances		
		A. Public nuisances	Sec. 3.01.007	CA
		B. Enforcement	Sec. 3.01.004(a)	CA
		C. Authority to carry tranquilizer guns	Sec. 3.01.004(b)	CA
		Sec. V Strays		
		A. Confinement of stray animals by individuals	Sec. 3.01.008	CA
		B. Abandonment of animals	Sec. 3.01.009	CA
		Sec. VI Cruelty	Sec. 3.01.010	CA
		Sec. VII Dangerous dogs		
		A. Dangerous dogs defined	Sec. 3.02.001	CA
		B. Authority to investigate incidents; to rule on dangerous dogs; appeals	Sec. 3.02.003	CA
		C. Requirements for owners of dangerous dogs	Sec. 3.02.004	CA
		D. Registration of dangerous dogs	Sec. 3.02.005	CA
		E. Attacks by dangerous dog	Sec. 3.02.006	CA
		F. Defenses	Sec. 3.02.007	CA
		Sec. VIII Enforcement of animal control regulations	Sec. 3.01.003	CA
		Sec. IX Penalty	Sec. 3.01.002	CA
		Sec. X Miscellaneous provisions		
		A. Places prohibited to livestock	Sec. 3.01.011	CA
		B. Breeding of certain animals prohibited	Sec. 3.01.012	CA
		C. Herding prohibited	Sec. 3.01.013	CA
		D. Keeping of certain livestock	Sec. 3.01.014	CA
		E. Killing of birds	Sec. 3.01.017	CA
		F. Injuring, capturing or killing animals on public property	Sec. 3.01.018	CA
		G. Keeping of fowl	Sec. 3.01.015	CA
		H. Keeping of bees	Sec. 3.01.016	CA
		I. Disposal of dead animals	Sec. 3.01.019	CA
2000-14-0074	8/14/00	Purchasing and accounting procedures	Rpld. by Ordinance adopting Code	CA
2000-15-0075	8/14/00	Burning of garbage, trash, brush or waste material		
		Sec. 1 Scope of ordinance	Sec. 6.02.001	CA
		Sec. 2 Definitions of terms	Sec. 6.02.002	CA
		Sec. 3 Burning of garbage, trash, brush or waste material	Sec. 6.02.004	CA
		Sec. 4 Penalty	Sec. 6.02.003	CA
2001-05-0077	5/17/01	Holes, ditches or excavations to be covered/barricaded or fences	Sec. 4.01.003	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2002-01-080	5/15/01	Amends Ord. 1999-07-0034; drilling near residence	Amnd. by Ord. 2006-08-115	CA
2001-06-0078	8/13/01	Reaffirms Ord. 1996-01-005; subdivision ordinance	Rpld. by Ord. 2011-03-161	CA
2001-07-0079	8/13/01	Reaffirms Ord. 1999-20-047; zoning ordinance	Rpld. by Ord. 2010-01-149	CA
2002-02-081	10/29/02	Adopts weight limits for vehicles on residential streets		
		Sec. 1 Limits established	Sec. 11.03.031	CA
		Sec. 2 Permit required; fee	Secs. 11.03.032, A1.008	CA
		Sec. 3 Loads over 50,000 pounds	Sec. 11.03.033	CA
		Sec. 4 Posting of signs	Sec. 11.03.034	CA
		Sec. 5 Penalty	Sec. 11.03.035	CA
2002-03-082	10/29/02	Adopts budget, FY 02-03	NIC	CA
2002-04-083	10/29/02	Amends electric franchise	NIC	CA
2003-02-088	4/22/03	Hydrocarbon wells		
		Sec. 1 Purpose	Sec. 5.04.001	CA
		Sec. 2 Definitions	Sec. 5.04.002	CA
			ADD MISSING DEFINITIONS FROM FT WORTH'S OIL ORD	
		Sec. 3 Operator's agents	Sec. 5.04.003	CA
		Sec. 4 Hydrocarbons well permit required	Sec. 5.04.004	CA
		Sec. 5 Hydrocarbons well permit application and filing fees	Secs. 5.04.005, A2.005(a)	CA
		Sec. 6 Hydrocarbon well permit classifications	Sec. 5.04.006	CA
		Sec. 7 Issuance of hydrocarbons well permits	Sec. 5.04.007	CA
		Sec. 8 Amended hydrocarbons well permits	Sec. 5.04.008	CA
		Sec. 9 Suspension or revocation of hydrocarbons well permit; effect	Sec. 5.04.009	CA
		Sec. 10 Periodic reports	Sec. 5.04.010	CA
		Sec. 11 Bond, letters of credit, indemnity, insurance	Sec. 5.04.011	CA
		Sec. 12 Technical regulations	Sec. 5.04.012	CA
		Sec. 13 Fences, wall, screening	Sec. 5.04.013	CA
		Sec. 14 Clean up and maintenance	Sec. 5.04.014	CA
		Sec. 15 Plugged and abandoned wells	Sec. 5.04.015	CA
		Sec. 16 Technical advisor	Sec. 5.04.016	CA
		Sec. 17 Appeals	Secs. 5.04.017, A2.005(b)	CA
		Sec. 18 Oil wells	Sec. 5.04.018	CA
		Sec. 19 Penalty	Sec. 5.04.019	CA



<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2003-04-090	5/13/03	Sale of alcoholic beverages Exhibit A		
		Sec. 4.1 Applicability of chapter– Generally	Sec. 5.02.001	CA
		Sec. 4.2 Applicability of chapter– Exceptions	Sec. 5.02.002	CA
		Sec. 4.3 Compliance with zoning ordinance–Storage, possession, sale, serving and defining “off the premises”	Sec. 5.02.003(a)	CA
		Sec. 4.4 Compliance with zoning ordinance–Engaging in business	Sec. 5.02.003(b)	CA
		Sec. 4.5 Mixed beverage permit holder	Sec. 5.02.004	CA
		Sec. 4.6 Procedure for obtaining certificate of occupancy to store, sell, possess, or serve alcoholic beverages	Sec. 5.02.005	CA
		Sec. 4.7 Fees–Schedule	Secs. 5.02.006, A1.006	CA
		Sec. 4.8 Fees–Payment annually in advance	Sec. 5.02.007	CA
		Sec. 4.9 Fees–Cancellation of license or permit for failure to pay	Sec. 5.02.008	CA
		Sec. 4.10 Fees–Restrictions on refund	Sec. 5.02.009	CA
		Sec. 4.11 Package stores	Sec. 5.02.010	CA
		Sec. 4.12 Proximity to churches, public schools and hospitals	Sec. 5.02.011	CA
2003-06-092	9/9/03	Adopts budget, FY 03-04	NIC	CA
2003-07-093	11/11/03	Amends Ord. 1998-03-0012 and 1999-21- 048; on-site sewage facilities; maximum penalty	Superseded by Ord. 2010-04- 152	CA
2004-01-096	1/11/04	Creates planning and zoning committee	Readopted by Ord. 202103- 03-22	CA
		Sec. 1 Creation ; composition	Sec. 9.04.001	CA
		Sec. 2 Duties	Sec. 9.04.002	CA
		Sec. 3 Operating rules and procedures	Sec. 9.04.003	CA
		Sec. 4 Public hearings	Sec. 9.04.004	CA
2003-08-094	1/13/04	Amends Ord. 2000-02-0062; construction and excavation		
		Amends sec. IV Schedule of fees	Secs. 4.08.004, A2.008	CA
		Amends sec. V Penalty	Sec. 4.08.005	CA
2003-09-095	1/13/04	Amends Ord. 2003-02-088; adds subsec. 6-1-B(7); hydrocarbons drilling near Hwy. 287, FM 407 and County Road 2264	Sec. 5.04.006(a)(2)(G)	CA
2004-02-097	2/10/04	Orders general election	NIC	CA
2004-03-0098	4/13/04	Authorizes sign with city contact information to be placed at entrances to city limit	NIC	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2004-04-0099	7/27/04	Adopts 2003 International Residential Code for One- and Two-Family Dwellings	Superseded by Ord. 2012-04-166	CA
2004-05-0100	1/11/05	Substandard buildings		
		Sec. I Purpose	Sec. 4.03.001	CA
		Sec. II Building standards	Sec. 4.03.002	CA
		Sec. III Procedures	Sec. 4.03.003	CA
		Sec. IV Violations	Sec. 4.03.004	CA
		Sec. V City demolition repair	Sec. 4.03.005	CA
		Sec. VI Lien performance	Sec. 4.03.006	CA
		Sec. VII Notice of lien	Sec. 4.03.007	CA
		Sec. VIII Prohibition against service	Sec. 4.03.008	CA
2005-01-101	2/8/05	Orders general election	NIC	CA
2005-02-102	3/10/05	Blocking or obstructing intersection	Sec. 11.01.002	CA
2005-03-103	3/10/05	Placement of dumpster or trash container in right-of-way	Sec. 12.02.001	CA
2005-04-104	4/12/05	Builder registration number for residential home builders	Rpld. by Ordinance adopting Code	CA
2005-05-105	5/24/05	Street width requirements	Sec. 10.02.001	CA
2005-06-106	5/24/05	Planning and zoning commission	Rpld. by Ord. 2019-03-190	CA
2005-07-107	10/6/05	Amends Ord. 1996-01-0005, sec. 2.02; fee schedules revised	Rpld. by Ord. 2011-03-161	CA
2006-01-108	1/5/06	Fireworks		
		Sec. I Scope of ordinance	Sec. 6.03.001	CA
		Sec. II Definitions of terms	Sec. 6.03.002	CA
		Sec. III Discharge of fireworks	Sec. 6.03.004	CA
		Sec. IV Penalty	Sec. 6.03.003	CA
2006-02-109	2/2/06	Orders general election	NIC	CA
2006-03-110	2/9/06	Signs		
		Section 1 Regulations adopted		
		Article I In General		
		Sec. 1 Definitions	Sec. 4.06.001	CA
		Article II Administration		
		Sec. 2 Responsibility for enforcement	Sec. 4.06.031	CA
		Sec. 3 Sign permit required	Sec. 4.06.032	CA
		Sec. 4 Application for sign permit	Sec. 4.06.033	CA
		Sec. 5 Fees	Sec. 4.06.034	CA
		Sec. 6 Conditional sign permit	Sec. 4.06.035	CA
		Sec. 7 Revocation of permits	Sec. 4.06.036	CA
		Sec. 8 Inspection	Sec. 4.06.037	CA
		Sec. 9 Permit valid for one hundred eighty (180) days	Sec. 4.06.038	CA
		Sec. 10 Investigation fees; work without a permit	Sec. 4.06.039	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2006-03-110, cont'd.		Sec. 11 Removal of signs	Sec. 4.06.040	CA
		Sec. 12 Filing of liens against property	Sec. 4.06.041	CA
		Article III Appeals and Variances		
		Sec. 13 Appeals	Sec. 4.06.071	CA
		Sec. 14 Variances	Sec. 4.06.072	CA
		Article IV General Sign Provisions		
		Sec. 15 Wind pressure and dead load requirements	Sec. 4.06.101	CA
		Sec. 16 Permitted sign structures and general regulations	Sec. 4.06.102	CA
		Sec. 17 Prohibited signs	Sec. 4.06.103	CA
		Article V Specific Sign Regulations		
		Sec. 18 Specific sign regulations	Sec. 4.06.131	CA
		Sec. 19 Permanent signs requiring permit	Sec. 4.06.132	CA
		Sec. 20 Permanent signs exempt from permit	Sec. 4.06.133	CA
		Sec. 21 Temporary signs requiring permit	Sec. 4.06.134	CA
		Sec. 22 Temporary signs exempt from permit	Sec. 4.06.135	CA
		Article VI Exemptions and Special Conditions		
		Sec. 23 Exempt signs	Sec. 4.06.171	CA
		Sec. 24 Nonconforming existing signs	Sec. 4.06.172	CA
		Sec. 25 Sign copy	Sec. 4.06.173	CA
		Sec. 26 Appendices	Sec. 4.06.003	CA
		Section 2 Provisions cumulative		
		Section 3 Severability		
		Section 4 Penalty	Sec. 4.06.002	CA
2006-04-111	4/13/06	Amends voting system of 2006 general election	NIC	CA
2006-05-112	8/10/06	International Fire Code, 2005 edition	Superseded by Ord. 2012-04-166	CA
2006-06-113	9/19/06	Amends Ord. 2005-05-105; street width	Sec. 10.02.001(b)	CA
2006-07-114	9/28/06	Adopts budget, FY 06-07	NIC	CA
2006-08-115	12/19/06	Amends Ord. 2002-01-080; drilling near residence or occupied public structure	Amnd. by Ord. 2007-03-118	CA
2007-01-116	3/6/07	Order general election	NIC	CA
2007-02-117	3/20/07	Code of ethics for officers		
		Sec. 1 Adds provisions to code	NIC	CA
		Sec. 2 Definitions	Sec. 2.04.001	CA
		Sec. 3 Policy	Sec. 2.04.002	CA
		Sec. 4 Unethical activity	Sec. 2.04.003	CA
		Sec. 5 Personal or private interest of officer	Sec. 2.04.004	CA
		Sec. 6 Attendance of all meetings	Sec. 2.04.005	CA
		Sec. 7 Violation of code of ethics; appeal	Sec. 2.04.006	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2007-03-118	3/20/07	Amends Ord. 2006-08-115; distance gas well may be built from structures	Amnd. by Ord. 2007-11-126	CA
2007-04-119	3/20/07	Amends Ord. 1998-005-0014, sec. 4-6; definition of junked vehicle	Sec. 8.05.001	CA
2007-05-120	4/17/07	Cancels general election; unopposed candidates	NIC	CA
2007-06-121	5/15/07	Sexually oriented businesses Section 1. Adoption		
		Sec. 12-160 Purpose and intent	Sec. 5.05.001	CA
		Sec. 12-161 Definitions	Sec. 5.05.002	CA
		Sec. 12-162 Classification	Sec. 5.05.003	CA
		Sec. 12-163 Location of sexually oriented businesses	Sec. 5.05.004	CA
		Sec. 12-164 License required	Sec. 5.05.005	CA
		Sec. 12-165 License application and fees	Sec. 5.05.006	CA
		Sec. 12-166 Sign requirements	Sec. 5.05.007	CA
		Sec. 12-167 Issuance of license	Sec. 5.05.008	CA
		Sec. 12-168 Inspection	Sec. 5.05.009	CA
		Sec. 12-169 Suspension	Sec. 5.05.010	CA
		Sec. 12-170 Revocation	Sec. 5.05.011	CA
		Sec. 12-171 Appeal	Sec. 5.05.012	CA
		Sec. 12-172 Transfer of license	Sec. 5.05.013	CA
		Sec. 12-173 Additional regulations for adult motels	Sec. 5.05.014	CA
		Sec. 12-174 Additional regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms	Sec. 5.05.015	CA
		Sec. 12-175 Additional regulations for escort agencies	Sec. 5.05.016	CA
		Sec. 12-176 Additional regulations for nude model studios	Sec. 5.05.017	CA
		Sec. 12-177 Sexual encounter centers prohibited	Sec. 5.05.018	CA
		Sec. 12-178 Additional regulations concerning public nudity and employees	Sec. 5.05.019	CA
		Sec. 12-179 Prohibition against minors in a sexually oriented business	Sec. 5.05.020	CA
		Sec. 12-180 Hours of operation	Sec. 5.05.021	CA
		Sec. 12-181 Alcoholic beverage sales and consumption prohibited	Sec. 5.05.022	CA
		Sec. 12-182 Signs and exterior portions	Sec. 5.05.023	CA
		Sec. 12-183 Injunction	Sec. 5.05.024	CA
		Sec. 12-184 Enforcement	Sec. 5.05.025	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2007-07-122	5/15/07	Rental registration and inspection Sec. 1 Rental property registration and inspection		
		Purpose	Sec. 4.04.001	CA
		Definitions	Sec. 4.04.002	CA
		Registration	Sec. 4.04.003	CA
		Inspection required	Sec. 4.04.004	CA
		Frequency of inspections	Sec. 4.04.005	CA
		Certificate of occupancy required	Sec. 4.04.006	CA
		Inspection procedure	Sec. 4.04.007	CA
		Request for inspection	Sec. 4.04.008	CA
		Certificate expiration date	Sec. 4.04.009	CA
		Certificate transferability	Sec. 4.04.010	CA
		Certificate availability	Sec. 4.04.011	CA
		Suspension or revocation of certificate	Sec. 4.04.012	CA
		Maintenance of records	Sec. 4.04.013	CA
		Exemptions	Sec. 4.04.014	CA
		Fees	Sec. 4.04.015	CA
		Nuisance, injunction	Sec. 4.04.016	CA
		Other actions, prosecution, court cases	Sec. 4.04.017	CA
		Sec. 2 Severability	NIC	CA
		Sec. 3 Conflicts repealed	NIC	CA
		Sec. 4 Penalty	Sec. 4.04.018	CA
2007-08-123	5/15/07	Discharge of firearms	Superseded by Ord. 2009-06-145	CA
2007-09-124	6/19/07	Swimming pools Sec. 1 Building regulations; swimming pools		
		Applicability	Sec. 4.07.001	CA
		Permit required	Sec. 4.07.002	CA
		Site requirements	Sec. 4.07.003	CA
		Fencing requirements	Sec. 4.07.004	CA
		Energy conservation, mechanical, electrical requirements	Sec. 4.07.005	CA
		Inspections	Sec. 4.07.006	CA
		Offenses; remedies	Sec. 4.07.007	CA
		Notice of violation	Sec. 4.07.008	CA
2007-10-125	7/17/07	In-home child care Division 1. Generally		
		Sec. 1 Definitions	Sec. 5.03.001	CA
		Sec. 2 Penalty	Sec. 5.03.002	CA
		Sec. 3 Enforcement	Sec. 5.03.003	CA
		Sec. 4 Registered family homes– Compliance	Sec. 5.03.004	CA
		Sec. 5 Same–Maximum number permitted	Sec. 5.03.005	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2007-10-125, cont'd.		Division 2. Permit		
		Sec. 6 Required	Sec. 5.03.031	CA
		Sec. 7 Application	Sec. 5.03.032	CA
		Sec. 8 Fee	Sec. 5.03.033	CA
		Sec. 9 Issuance does not created vested rights	Sec. 5.03.034	CA
		Sec. 10 Display	Sec. 5.03.035	CA
		Sec. 11 Nontransferable	Sec. 5.03.036	CA
		Sec. 12 Suspension	Sec. 5.03.037	CA
		Sec. 13 Revocation	Sec. 5.03.038	CA
2007-11-126	8/7/07	Amends Ord. 2007-03-118; distance oil or gas well may be built from structures	Rpld. by Ordinance adopting Code	CA
2007-12-127	9/18/07	Amends Ord. 1998-005-0014; nuisances		
		Amends sec. 1-4; procedures for enforcement of code	Sec. 2.01.002	CA
		Amends sec. 1-5; general penalty	Superseded by Ordinance adopting code	CA
		Amends sec. 4-12; height limitations on certain weeds, grass, and uncultivated vegetation	Sec. 7.02.004(a), (b)	CA
2007-13-128	10/16/07	Adopts budget, FY 07-08	NIC	CA
2007-14-129	11/20/07	Amends Ord. 1999-20-0047, sec. 3; zoning ordinance, planned development district	Rpld. by Ord. 2010-01-149	CA
2007-15-130	11/27/07	Rezoning	NIC	CA
2008-01-131	2/12/08	Orders general election	NIC	CA
2008-02-132	3/31/08	Cancels general election; unopposed candidates	NIC	CA
2008-03-133	4/29/08	Rezoning	NIC	CA
2008-04-134	6/24/08	Placing of vehicles for sale	Sec. 11.01.003	CA
2008-05-135	7/29/08	Amends Ord. 2008-03-133; Rio Rancho Planned Development	NIC	CA
2008-06-136	9/16/08	City administrator	Superseded by Ord. 2020-02-197	CA
2008-07-137	10/7/08	Adopts budget, FY 08-09	NIC	CA
2008-08-138	10/21/08	Rezoning	NIC	CA
2008-09-139	11/20/08	Prohibits parking within 1000 feet of water towers between 8 p.m. and 6 a.m.	Sec. 11.02.001	CA
2009-01-140	1/20/09	Amends Ord. 2005-06-106; number of members on planning and zoning commission	Rpld. by Ord. 2019-03-190	CA
2009-02-141	2/5/09	Orders general election	NIC	CA
2009-03-142	2/17/09	Engine brakes	Sec. 11.01.001	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2009-04-143	2/26/09	Temporary (off-premise) real estate signs	Sec. 4.06.136	CA
2009-05-144	3/17/09	Cancels general election; unopposed candidates	NIC	CA
2009-06-145	10/20/09	Discharge of firearms	Sec. 8.02.001	CA
2009-07-146	6/16/09	TMRS	NIC	CA
2009-08-147	11/17/09	Adopts budget, FY 09-10	NIC	CA
2009-09-148	11/30/09	Rezoning	NIC	CA
2010-01-149	1/19/10	Repeals and replaces zoning ordinance (Ord. 1999-20-0047)	Ch. 9, exhibit B	CA
2010-02-150	2/23/10	Orders general election	NIC	CA
2010-03-151	3/23/10	Declares unopposed candidates; cancels general election	NIC	CA
2010-04-152	5/18/10	On-site sewage facilities		
		Sec. 1 Incorporation of preamble	NIC	CA
		Sec. 2 Findings	NIC	CA
		Sec. 3 Adoption	NIC	CA
		Sec. 4 Conflicts	NIC	CA
		Sec. 5 Chapter 366	Sec. 12.04.001	CA
		Sec. 6 Area of jurisdiction	Sec. 12.04.002	CA
		Sec. 7 On-site sewage facility rules	Sec. 12.04.003	CA
		Sec. 8 On-site sewage facility rules adopted	Sec. 12.04.004	CA
		Sec. 9 Incorporation by reference	Sec. 12.04.005	CA
		Sec. 10 Amendments	Sec. 12.04.006	CA
		Sec. 11 Duties and powers	Sec. 12.04.007	CA
		Sec. 12 Collection of fees	Sec. 12.04.008	CA
		Sec. 13 Appeals	Sec. 12.04.009	CA
		Sec. 14 Enforcement plan	Sec. 12.04.010	CA
		Sec. 15 Severability	NIC	CA
		Sec. 16 Relinquishment of ordinance	Sec. 12.04.011	CA
2010-05-153	10/12/10	Adopts budget, FY 10-11	NIC	CA
2010-06-154	10/12/10	Amends Ord. 2005-06-106; creates two additional regular members of planning and zoning commission	Rpld. by Ord. 2019-03-190	CA
2010-07-155	10/19/10	Appoints economic development committee	NIC	CA
2010-08-156	10/19/10	Flood damage prevention		
		Art. 1 Statutory authorization, findings of fact, purpose and methods	Sec. 4.05.001	CA
		Art. 2 Definitions	Sec. 4.05.002	CA
		Art. 3 General provisions	Sec. 4.05.003	CA
		Art. 4 Administration	Sec. 4.05.004	CA
		Art. 5 Provisions for flood hazard reduction; penalty	Sec. 4.05.005	CA
2010-09-157	11/16/10	Annexation	NIC	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2010-10-158	12/9/10	Annexation	NIC	CA
2011-01-159	2/14/11	Orders general election	NIC	CA
2011-02-160	4/19/11	Declares unopposed candidates; cancels general election	NIC	CA
2011-03-161	6/21/11	Repeals Ord. 1996-01-0005, arts. 1–4; subdivision regulation	Ch. 9, exhibit A	CA
2011-03-161-2	10/13/11	Adopts budget, FY 11-12	NIC	CA
2011-04-162	10/18/11	Taxation of goods-in-transit	Sec. 2.09.035	CA
2012-01-163	3/4/12	Orders general election	NIC	CA
2012-02-164	4/17/12	Declares unopposed candidates; cancels general election	NIC	CA
2012-03-165	4/17/12	Jurisdiction over utility rates, operations and service	Sec. 12.01.001	CA
2012-04-166	4/17/12	Adopts building codes	Superseded by Ord. adopted 8/3/20	CA
2012-05-167	10/16/12	Amends zoning ordinance; governmental administrative facility		
		Sec. 1 Use table	Ch. 9, exhibit B, sec. 11.2	CA
		Sec. 2 Adds. item 22 to sec. 12.1; description of land use table conditions and special regulations	Ch. 9, exhibit B, sec. 12.1(22)	CA
2012-06-168	10/30/12	Rezoning	NIC	CA
2012-07-169	12/4/12	Adopts budget, FY 12-13	NIC	CA
2013-01-170	1/29/13	Orders general election	NIC	CA
2013-02-171	3/19/13	Declares unopposed candidates; cancels general election	NIC	CA
2013-03-172	11/21/13	Adopts budget, FY 13-14	NIC	CA
2014-02-173	4/3/14	Declares unopposed candidates; cancels general election	NIC	CA
2014-03-174	12/8/14	Adopts budget, FY 14-15	NIC	CA
2015-02-176	3/23/15	Declares unopposed candidates; cancels general election	NIC	CA
2015-01-175	11/16/15	Adopts budget, FY 15-16	NIC	CA
2016-01-177	2/23/16	Orders general election	NIC	CA
2016-02-178	3/22/16	Declares unopposed candidates; cancels general election	NIC	CA
2016-03-179	8/16/16	Amends planning and zoning commission	Superseded by Ord. 2019-03-190	CA
2016-04-180	8/30/16	Rezoning	NIC	CA
2016-05-181	--/16	Solid waste disposal		
		Sec. 1 Incorporation of premises General	NIC	CA
		Sec. 2 Purpose	Sec. 12.02.031	CA
		Sec. 3 Definitions	Sec. 12.02.032	CA
		Sec. 4 Service required	Sec. 12.02.033	CA



<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2016-05-181, cont'd.		Sec. 5 Prohibitions	Sec. 12.02.034	CA
		Sec. 6 Removal of unauthorized containers	Sec. 12.02.035	CA
		Residential customer responsibilities		
		Sec. 7 Service established	Sec. 12.02.036(a)	CA
		Sec. 8 Charges for residential service	Sec. 12.02.036(b)	CA
		Sec. 9 Residential collection service	Sec. 12.02.036(c)	CA
		Sec. 10 Residential bulk waste collection	Sec. 12.02.036(d)	CA
		Sec. 11 Residential collection schedules	Sec. 12.02.036(e)	CA
		Commercial customer responsibilities		
		Sec. 12 Service established	Sec. 12.02.037(a)	CA
		Sec. 13 Charges for commercial service	Sec. 12.02.037(b)	CA
		Sec. 14 Commercial rear-load collection service	Sec. 12.02.037(c)	CA
		Sec. 15 Commercial collection schedules	Sec. 12.02.037(d)	CA
2017-01-182	1/17/17	Orders general election	NIC	CA
2017-02-183	2/23/17	Declares unopposed candidates; cancels general election	NIC	CA
2018-01-184	2/19/18	Orders general election	NIC	CA
2018-03-186	3/19/18	Annexation	NIC	CA
2018-04-187	6/4/18	Rezoning	NIC	CA
2019-01-188	5/14/19	Powers and duties of mayor	Rpld. by Ord. 2020-03-198	CA
2019-02-189	7/15/19	Annexation	NIC	CA
2019-03-190	7/15/19	Repeals planning and zoning commission (Ord. 2004-01-096, 2005-06-106, and section 27A of Ord. 2005-06-106)	Rpld. by Ord. 202103-03-222	CA
2019-05-192	8/26/19	Boundary agreement with Fort Worth	NIC	CA
2019-06-193	9/9/19	Adopts budget, FY 19-20	NIC	CA
2019-07-194	9/9/19	Tax levy	NIC	CA
	11/-/19	Fee schedule		
		Administration fees	Sec. A1.001	CA
		Health permits	Sec. A1.002	CA
		In-home child care registration	Sec. A1.003	CA
		Grading permit	Sec. A1.004	CA
		Contractor registration	Sec. A1.005	CA
		Building permits	Sec. A2.001	CA
		Fire permits	Sec. A2.003	CA
		Oil and gas construction permit and seismic survey	Sec. A2.004	CA
		New commercial buildings - step rate	Sec. A2.002	CA
		City platting permits	Sec. A2.006	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2019-08-195	11/4/19	Adopts ad valorem tax freeze for residential homestead property owners who are disabled or 65 years of age or older	Sec. 2.09.031	CA
2020-01-196	1/20/20	Place system for election of councilmembers	Sec. 2.02.001	CA
2020-02-197	2/24/20	City administrator Sec. 1 Office created	Sec. 2.03.031	CA
		Exhibit A Job description	NIC	CA
2020-03-198	2/24/20	Repeals Ord. 2019-01-188; duties of mayor	NIC	CA
2020-04-199	2/24/20	Appoints interim city administrator	NIC	CA
2020-05-200	4/6/20	Amends budget, FY 2020	NIC	CA
2020-06-201	4/20/20	Annexation	NIC	CA
202101-01-219				
2020-07-202	4/20/20	Accepts service and assessment plan and roll for Constellation Lake PID	NIC	CA
2020-08-203	4/20/20	Rezoning	NIC	CA
2020-09-204	5/4/20	Residential homestead exemption for disabled veterans or spouse	Sec. 2.09.032	CA
2020-10-205	5/4/20	Residential homestead exemption for property owners who are disabled	Sec. 2.09.033	CA
2020-11-206	5/4/20	Residential homestead exemption for property owners who are 65 or older	Sec. 2.09.034	CA
2020-12-207	5/18/20	Designates zoning classification of parcel of land	NIC	CA
2020-13-208	5/18/20	Adopts procurement policy	Sec. 2.08.001	CA
2020-14-209	7/13/20	Designates zoning classification of parcel of land	NIC	CA
2020-15-210	7/13/20	Annexation	NIC	CA
2020-16-211	7/17/20	Appoints city administrator	NIC	CA
	8/3/20	Adopts International Building Codes		
		Sec. 1 Findings incorporated	NIC	CA
		Sec. 2 Adoption of construction and technical codes	Sec. 4.02.001	CA
		Sec. 3 Penalty	Sec. 4.02.002	CA
2020-17-212	9/14/20	Amends subdivision ordinance		
		Sec. 1 Amends sec. 2-2(b)(10); preliminary plat, certificates	Ch. 9, exhibit A, sec. 2-2(b)(10)	CA
		Sec. 2 Amends sec. 2-4(b)(11); final plat, certificates	Ch. 9, exhibit A, sec. 2-4(b)(11)	CA
		Sec. 3 Amends sec. 2-4(g)(4); final plat; signing and recording	Ch. 9, exhibit A, sec. 2-4(g)(4)	CA
2020-18-213	9/14/20	Grants authority to city administrator to execute contracts, agreements and plats	Sec. 2.03.032	CA

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>	<b>Disposition</b>	<b>Supp. No.</b>
2020-19-214	9/28/20	Adopts budget, FY 2021	NIC	CA
202012-01-215	12/14/20	Flood damage prevention		
		Art. 1 Statutory authorization, findings of fact, purpose and methods	Sec. 4.05.001	CA
		Art. 2 Definitions	Sec. 4.05.002	CA
		Art. 3 General provisions	Sec. 4.05.003	CA
		Art. 4 Administration	Sec. 4.05.004	CA
		Art. 5 Provisions for flood hazard reduction; penalty	Sec. 4.05.005	CA
202012-02-216	12/14/20	Rezoning	NIC	CA
202012-03-217	12/14/20	Annexation	NIC	CA
202012-04-218	12/14/20	Combination tax and revenue certificates of obligation, series 2021	NIC	CA
202101-01-219	4/20/20	Annexation	NIC	CA
202102-35-220 (per city log)	2/1/21	Adopts annual safety examination program		
		Sec. 1		
		(A) Purpose	Sec. 5.06.001	CA
		(B) Annual safety inspections	Sec. 5.06.002	CA
		(C) Noncompliance	Sec. 5.06.003	CA
		(D) Inspection fees	Sec. 5.06.004	CA
		(E) Penalty	Sec. 5.06.005	CA
202102-02-221	2/1/21	Residential homestead tax exemption	Tabled	CA
202103-03-222	3/1/21	Repeals Ord. 2019-03-190; reinstates Ord. 2004-01-096 as originally written and adopted; planning and zoning commission	Secs. 9.04.001–9.04.004	CA
202101-04-224	4/5/21	Shoop Ranch Planned Development District	NIC	
202104-01-225	--/21	Amends duties and qualifications of city administrator	NIC	CA
202104-02-226	4/5/21	Boundary agreement with Fort Worth	NIC	CA





**City Council Agenda  
December 6, 2021**

**Agenda Item:** **Ordinance** **(Action Item)**

**Agenda Description:**

An ordinance of the City of New Fairview, Texas, providing for a change in the municipal contributions to the current service annuity reserve at retirement of the employees of the City of New Fairview, Texas.

**Background Information:**

During the FY 2021/2022 budget process, the City Council discussed the importance of being competitive in recruiting and retaining quality staff members and included an increase in the Texas Municipal Retirement System (TMRS) match to 2:1 at 7%. On August 16, 2021, the City Council adopted the budget which includes the budget authority and funding for this increase. TMRS contacted city staff and stated that in addition to the adopted budget, they needed the Council to adopt an ordinance. TMRS also provided the required ordinance, which has been attached to this agenda summary.

**Financial Information:**

No financial impact to the adopted FY 2021/22 operating budget.

**City Contact and Recommendation:**

Ben Nibarger, City Administrator  
Approve the ordinance

**Attachments:**

Ordinance



TMRS- Match

**TEXAS MUNICIPAL RETIREMENT SYSTEM**

**AN ORDINANCE PROVIDING FOR A CHANGE IN THE MUNICIPAL CONTRIBUTIONS TO THE CURRENT SERVICE ANNUITY RESERVE AT RETIREMENT OF THE EMPLOYEES OF THE CITY OF NEW FAIRVIEW, TEXAS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF NEW FAIRVIEW, TEXAS:**

That effective January 1, 2022 for each month of current service thereafter rendered by each of its employees who are members of the Texas Municipal Retirement System, the City elects to provide for each such member at the time of his or her retirement, a sum that is **200%** of such member's accumulated deposits for such month of employment; and said sum shall be a liability of the City's account in the benefit accumulation fund.

Passed and approved this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
City Secretary or Clerk

\_\_\_\_\_  
Mayor



**City Council Agenda  
December 6, 2021**

**Agenda Item:** **Resolution** **(Action Item)**

**Agenda Description:**

Discuss, consider, and act on a resolution of the City of New Fairview, Texas, amending the Council adopted fee schedule to include commercial safety inspection fees, establish the inspection schedules and criteria, and authorize the City Administrator to enter into agreements with East Wise Fire Rescue and Modern Geosciences to provide the commercial safety inspection services.

**Background Information:**

The Council tabled this item on November 15, 2021 and asked to bring it back in the next meeting.

---

Municipalities are granted regulatory authority to ensure public health and safety. Certain business and commercial operations in the City, due to the nature of the operation, carry with them particular risks for the occurrence of dangerous incidents, including fire, explosion, nuisance or other catastrophe, and for that reason present a threat to the health and safety of the city.

In January 2021, the City Council adopted Ordinance 2021-01-220, which established the authority to staff to conduct the safety inspections to ensure that commercial entities within the city limits are in compliance with applicable federal, state and local regulations to protect the health, safety, and welfare of the city. Staff has been working with the City Attorney and East Wise Fire Rescue to implement the safety inspections for well over a year and are prepared to move forward with the implementation of the program.

In November 2021, staff met with Modern Geosciences, who conducts hydrocarbon well safety inspections for the City of Denton, as well as numerous other municipalities in the Dallas-Fort Worth area, has provided the following information regarding the annual safety inspections for hydrocarbon wells and recommends an initial safety inspection fee of \$2,000. Examples of other cities in the DFW area and their fees can be seen below.

- **Grand Prairie** - \$2,750 - [Link to ordinance](#)  
With other fees when there is rework, an operator transfer, etc.
- **Flower Mound** - \$4,250 - [Link to ordinance](#)  
“34-421(c) Annual inspection fees: An inspection fee of \$4,250.00 per well shall be required annually, starting one year after the initial date the oil, gas, or combined well permit is issued and each year thereafter.”
- **Arlington** - \$2397 - [Link to ordinance](#)
- **Bedford** - \$2,500 - [Link to ordinance](#)
- **Mansfield** - \$2,250 - [Link to ordinance](#)

**The year-one safety inspection for hydrocarbon wells would include the following:**

- Verify RRC dataset and aerial depiction of padsites within the City Limits/match to operator; and
- coordinate with operators on equipment specifics, permit status, access needs and schedule; and
- generate initial field maps from multiple database sources for field event; and
- generate compliance checklist from existing ordinance and applicable RRC, TCEQ, EPA rules; and
- conduct field visits – verify infrastructure location, type, and establish unique nomenclature for each major component; confirm compliance items; and
- conduct inspections – complete leak detection effort consistent with Quad Oa using OGI and NORM Screening; and
- provide interim reporting – within two-weeks of final inspection event Modern will communicate findings and Action Items from the inspection event for them to communicate corrective action; and
- generate reports (Individual Padsite) - approximately two-weeks from operator communication, Modern will generate an electronic report with scale map, infrastructure specifics, compliance inspection, leak inspection, and radiation inspection findings. Photos of selected equipment, pad site conditions, and leak documentation (OGI and Standard) included (these reports may be used to meet the requirements for Quad Oa and Quad Ob inspection elements - a cost of \$500-\$900 per well for all wells drilled post September 2015 but anticipated to become a requirement for all wells in the near future); and
- provide reporting summary – create a full summary of the findings with Leak Rate and NORM Rate comparison to evaluate operator performance. Will have summary maps of open Action Items for your team to check on and other findings.



**The year-one safety inspection for retail, office, and other commercial operations would include the following:**

- Develop a list of all commercial operations within the City Limits; and
- coordinate with businesses on permit status, hours of operation, inspection schedule, and checklist for inspections; and
- add data into the City's GIS system, updating the parcel and building layers; and
- conduct field inspections – verify infrastructure location, inspect emergency lighting, fire extinguishers, occupancy, points of ingress/egress from the building, utilities, emergency exit signs, fire alarms, hazardous areas, and training records (use of fire extinguisher, fire drills, etc.); and
- generate report – final report for each facility, including images and updates on the facility, utilization, etc.

Staff is continuing to work with counterparts in the different commercial establishments within the city limits to discuss the implementation of this ordinance and how it will impact their operations.

**Financial Information:**

Year-one hydrocarbon well inspection costs are estimated at \$275,000 (not including equipment and materials; year-one retail, office, and other commercial safety inspection costs are estimated at \$1,500; year-one capital costs for the safety inspection are estimated at \$175,000, including the acquisition of two safety inspection vehicles, equipment, and gear; safety inspection fee revenues will offset new expenditures to implement the program.

**City Contact and Recommendation:**

Ben Nibarger, City Administrator  
Approve resolution

**Attachments:**

Resolution  
Attachment A  
Sample of Hydrocarbon Well Inspection Report  
Sample of the Fire Marshal Safety Inspection Report



**City of New Fairview, Texas**  
**Resolution No. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, AMENDING THE COUNCIL ADOPTED FEE SCHEDULE TO INCLUDE COMMERCIAL SAFETY INSPECTION FEES, CRITERIA, AND SCHEDULES.**

**WHEREAS,** the City of Fairview is an incorporated city in the State of Texas; and

**WHEREAS,** the City of New Fairview is a General Law city as classified by the Texas Municipal Code; and

**WHEREAS,** the City of New Fairview wishes to ensure a safe environment for those who live, work, or visit the City; and

**WHEREAS,** the City Council has previously adopted an ordinance authorizing commercial safety inspections; and

**WHEREAS,** the City Council has directed staff to develop and implement a commercial safety inspection program to efficiently and effectively meet the needs of the City; and

**WHEREAS,** the City Council finds that the passage of this Resolution is in the best interest of the citizens of New Fairview.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY NEW FAIRVIEW:**

1. That, all matters stated in the recitals herein above are found to be true and correct and are incorporated herein by reference as if copied in their entirety.
2. That the City Council does hereby amend the previously adopted fee schedule to include the safety inspection fees included in "Attachment A".

3. That, if any portion of this resolution shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the Council hereby determined that it would have adopted this Resolution without the invalid provision.
  
4. That this Resolution shall become effective from and after its date of passage.

PRESENTED AND PASSED on this **6<sup>th</sup> day of December**, at a meeting of the New Fairview City Council.

APPROVED:

ATTESTED:

\_\_\_\_\_  
Nolan Schoonmaker  
Mayor

\_\_\_\_\_  
Brooke Boller  
Interim Deputy City Secretary

**Attachment A**

**Hydrocarbon Well Annual Safety Inspection**

Year-one	\$2,000
Year-two (Leak Rate and NORM Rate benchmark comparison)	TBD

**Fire Marshal safety inspection** \$100



**MODERN GEOSCIENCES**  
TRUSTED ENVIRONMENTAL ADVISORS

DATE July 12, 2021  
PROJECT 21125  
ATTN City of Denton  
215 East McKinney Street  
Denton, Texas 76201

Padsite Inspection Report	
Padsite No.	150 (Robson Ranch 600)
Operator:	Bedrock
Location:	<input checked="" type="checkbox"/> City of Denton <input type="checkbox"/> Denton ETJ
Priority:	<input checked="" type="checkbox"/> High <input type="checkbox"/> Moderate <input type="checkbox"/> Low

Modern Geosciences, LLC (Modern) is pleased to provide the attached Padsite Inspection Report documenting the results of our recent inspection and monitoring events at the above-referenced padsite. A general summary of findings is presented below with detailed results provided in the attached report.

- **Field Inspection Results:** As part of the field inspection efforts, Modern evaluated the padsite concerning general ordinance or operational requirements set forth by the City.

No operational or ordinance compliance issues were noted by Modern during our inspection efforts.

- **Near-Equipment Inspection Results:** Our inspection efforts at this padsite included near-equipment monitoring using optical gas imaging (OGI) to identify leaks of methane and/or volatile organic compounds (VOCs) and radiation meters to identify equipment exhibiting naturally-occurring radioactive material (NORM) above applicable regulatory criteria. The accumulation of scale within equipment can cause elevated NORM levels requiring proper signage and equipment management. A summary of near-equipment findings is presented below with further detail in the attached report.

Near Equipment Inspection Summary:				
Equipment	Number	Leaks*	Unlabeled NORM**	Labeled NORM**
Wells	12	2	0	7
Separators	15	4	1	7
ASTs	3	0	1***	0
Other	18	0	0	2

\*OGI leaks identified exclude operational low bleed components ( $\leq 6$  scf/hr)

\*\*NORM exceeding 50  $\mu$ R/hr

\*\*\*AST B noted as temporary. NORM exceedance not noted as an Action Item at this time. Future verification suggested.

*All near-equipment inspection concerns (e.g., leaks) were communicated to the operators with a two-week period to address each. If the concerns were not addressed, these are included in the Action Items listed below. If items were addressed, this will be documented in the report.*



**MODERN GEOSCIENCES**  
TRUSTED ENVIRONMENTAL ADVISORS

- **Fenceline Inspection Results:** Our inspection efforts for this padsite included an evaluation of air quality at representative upwind and downwind points at the padsite boundary. Our approach utilized a variety of equipment to screen for potential impacts that could affect air quality off of the padsite or suggest additional monitoring may be warranted. Please refer to the report for additional detail on our findings.

Fenceline inspection did not identify air quality concerns above program screening goals.

- **Action Items:** If items are identified during our inspection that remain unresolved or require future confirmation, these will be listed as individual action items for the operator until the City has confirmed further action is not required.

There are no outstanding Action Items as of the date of this report.

- **Next Inspection Event:** The City of Denton completes periodic inspections at all padsites throughout the year. In addition to this, the City has asked Modern to perform supplemental inspections with high-resolution equipment based on proximity to sensitive property uses. Based on the current prioritization, this padsite is scheduled to be inspected again by Modern in the second half of 2021.

## CLOSING

We appreciate the opportunity to provide our services to you. Should you require additional information or have any questions regarding this report, please contact the undersigned at 682.223.1322.

Respectfully submitted,

Kenneth S. Tramm, PhD, PG, CHMM  
Senior Program Manager

### MODERN GEOSCIENCES

Texas Registered Geoscience Firm 50411  
Texas Registered Engineering Firm F-16201





**MODERN GEOSCIENCES**  
TRUSTED ENVIRONMENTAL ADVISORS

DATE  
July 12, 2021

PROJECT  
21125

# PADSITE INSPECTION REPORT

**Padsite No. 150 – Robson Ranch 600**

PREPARED FOR  
**City of Denton**  
215 East McKinney Street  
Denton, Texas 76201

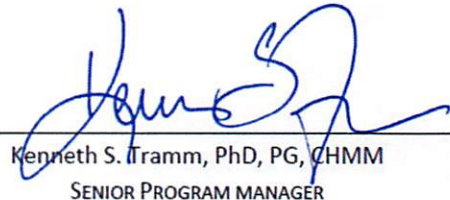
PREPARED BY



---

Zachary Tondre, MS, GIT  
PROJECT MANAGER

REVIEWED BY



---

Kenneth S. Tramm, PhD, PG, CHMM  
SENIOR PROGRAM MANAGER

# PADSITE INSPECTION REPORT

Padsite Name: Robson Ranch 600 (#150)

Inspection Date: 06/04/21

Operator: Bedrock

Inspectors: ZT, DW



**MODERN GEOSCIENCES**

TRUSTED ENVIRONMENTAL ADVISORS

## FIELD INSPECTION RESULTS:

Pass	Fail	N/A	General Inspection Checklist Items
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 1: Appropriate signage present at padsite entrance including operator name, site address, well names, 24 hr phone number, and no smoking. Comments: None
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 2: Appropriate signage present at padsite entrance and/or equipment including RRC/API numbers. Comments: None
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 3: Fencing present surrounding padsite and/or equipment. Comments: None
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 4: Site secured. Gates locked to control unauthorized access. Comments: None
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 5: Surface topography prevents areas with significant water collection. Comments: None
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 6: Surface free of stains or other signs of significant spills/releases. Comments: None
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 7: Padsite free of trash/waste debris. Comments: None
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Item 8: Lighting not directed toward adjacent property/roads (as applicable). Comments: None
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 9: All equipment painted with no bare pipe present. Comments: Minor corrosion noted as potential future action item.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 10: Landscaping appears well maintained (as applicable). Comments: None
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Item 11: Lightning arrestors present at ASTs and in good condition (as applicable). Comments: Not applicable – tank battery not present; temporary tanks noted, not in use.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Item 12: Pipeline markers present at roads (as applicable). Comments: None
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Item 13: Tank battery and secondary containment appear to have integrity with no significant corrosion. Comments: Not applicable – tank battery not present; temporary tanks noted, not in use.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Item 14: Remote compressed air foam line (fire suppression) present. Comments: None
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 15: Access road accommodates 20' wide emergency vehicle requirements. Comments: None
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Item 16: Water/oil transfer points within secondary containment or have drip control accessory to minimize spillage during waste transfer. Comments: Not applicable – tank battery not present; temporary tanks noted, not in use.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Item 17: Tank battery has appropriate hazardous material signage. Comments: Not applicable – tank battery not present; temporary tanks noted, not in use.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Item 18: Poned water (Pit) has fencing and access controls. Comments: Not applicable – ponded water not present.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Item 19: Other Audio, Visual, or Olfactory concerns noted during the inspection. Comments: None



## PADSITE INSPECTION REPORT

**Padsite Name:** Robson Ranch 600 (#150)  
**Inspection Date:** 06/04/21

**Operator:** Bedrock  
**Inspectors:** ZT, DW



### NEAR EQUIPMENT INSPECTION CRITERIA:

Constituent:	Methane	NORM
At Equipment:	10,000 ppmv <sup>1</sup>	50 µR/hr <sup>2</sup>
Equipment:	OGL Camera	Radiation Meter
Resolution:	3,000-10,000 ppmv	1 µR/hr

### FENCELINE INSPECTION CRITERIA:

Constituent:	Methane	tVOCs	H <sub>2</sub> S	NORM
Fenceline:	500 ppmv <sup>3</sup>	0.1 ppmv <sup>4</sup>	0.08 ppmv <sup>5</sup>	20 µR/hr <sup>6</sup>
Equipment:	DPIR Meter	PID	H <sub>2</sub> S Meter	Radiation Meter
Resolution:	1 ppmv	0.001 ppmv	0.003 ppmv	1 µR/hr

#### Notes:

- 1- Utilizes the Interstate Natural Gas Association of America (INGAA) recommended leak definition within their December 4, 2015 response to EPA Docket No. EPA-HQ-OAR-2010-0505 – “Oil and Natural Gas Sector: Emission Standards for New and Modified Sources,” dated September 18, 2015 (80 FR 56593). Also represents 20% of the Lower Explosive Limit. A lower leak definition and additional inspection and reporting may be required at facilities subject to 40 CFR §60 Subpart OOOOa. Documented continuous low-bleed components (<6 scf/hr) and intermittent emissions from properly functioning pneumatic devices are not considered leaks for the purposes of this inspection.
- 2- The Texas Railroad Commission (RRC) regulates NORM under 16 TAC §4 (*Environmental Protection, Subchapter F, Oil and Gas NORM*). Subchapter F establishes the requirements for oil and gas NORM waste disposal for the purpose of protecting public health and the environment. NORM-contaminated equipment is defined in Subchapter F as “equipment that, at any accessible point, exhibits a minimum radiation exposure level greater than 50 µR/hr including background radiation level.” When identified, the equipment suspected of being NORM-containing will be communicated to the City and operator(s) to allow further inspection and where appropriate compliance with RRC signage and management requirements.
- 3- Represent half of the American Conference of Governmental Industrial Hygienists (ACGIH) 8-hour threshold limit value (TLV) of 1,000 ppmv (0.1% by volume) set for potential cardiac sensitization and central nervous system depression.
- 4- Consistent fenceline concentrations of 0.1 ppmv could indicate a potential off-site air quality exceedance of applicable TCEQ Air Monitoring Comparison Values (AMCVs) or Effect Screening Levels (ESLs). Further sampling will be needed to confirm the individual compounds present and direct regulatory comparison.
- 5- Indicative of possible 30 TAC §112.31 (30-min avg.) exceedance of 0.08 ppmv. Further sampling will be needed to confirm the 30-minute average and allow direct regulatory comparison.
- 6- EPA average background criteria established under Document No. 402-R-08-005; April 2008. Reported background ranged from 10 µR/hr to 85 µR/hr. Elevated fenceline observations may require further screening to confirm attenuated levels near sensitive receptors.



## PADSITE INSPECTION REPORT

Padsite Name: Robson Ranch 600 (#150)

Inspection Date: 06/04/21

Operator: Bedrock

Inspectors: ZT, DW



### NEAR EQUIPMENT INSPECTION RESULTS:

#### INSPECTION RESULTS - WELLS

Location ID:	Leaks (OGI):	NORM ( $\mu\text{R/hr}$ ; max):	Date Reported <sup>1</sup> :	Date Addressed <sup>2</sup> :
Well A	None	<15	NA	NA
Well B	None	290	NA	NA
Well C	Kimray Valve	600	06/07/21	07/02/21
Well D	None	320	NA	NA
Well E	None	400	NA	NA
Well F	None	500	NA	NA
Well G	None	800	NA	NA
Well H	None	<15	NA	NA
Well I	None	45	NA	NA
Well J	None	140	NA	NA
Well K	None	<15	NA	NA
Well L	Subgrade Leak	<15	06/07/21	07/02/21

General Notes: The NORM observations were labeled prior to Modern's inspection. No other concerns noted.

<sup>1</sup> - Reported to operator; <sup>2</sup> - If reported to Modern by operator/City; \*NORM exceeding 50  $\mu\text{R/hr}$  not labeled

#### INSPECTION RESULTS - SEPARATORS

Location ID:	Leaks (OGI):	NORM ( $\mu\text{R/hr}$ ; max):	Date Reported <sup>1</sup> :	Date Addressed <sup>2</sup> :
Separator A	None	100	NA	NA
Separator B	Actuator	400	06/07/21	07/02/21
Separator C	None	160*	06/07/21	07/02/21
Separator D	None	190	NA	NA
Separator E	Actuator	200	06/07/21	07/02/21
Separator F	Actuator	270	06/07/21	07/02/21
Separator G	None	200	NA	NA
Separator H	None	40	NA	NA
Separator I	None	25	NA	NA
Separator J	None	110	NA	NA
Separator K	None	<15	NA	NA
Separator L	Actuator	100	06/07/21	07/02/21
Separator M	None	<15	NA	NA
Separator N	None	<15	NA	NA
Separator O	None	45	NA	NA

General Notes: NORM exceedance noted on Separator C; the remaining NORM observations were labeled prior to Modern's inspection. Minor corrosion noted on separators. No other concerns noted.

<sup>1</sup> - Reported to operator; <sup>2</sup> - If reported to Modern by operator/City; \*NORM exceeding 50  $\mu\text{R/hr}$  not labeled



# PADSITE INSPECTION REPORT

Padsite Name: Robson Ranch 600 (#150)

Inspection Date: 06/04/21

Operator: Bedrock

Inspectors: ZT, DW



**MODERN GEOSCIENCES**  
TRUSTED ENVIRONMENTAL ADVISORS

## INSPECTION RESULTS – TANK BATTERY (ASTs)

Location ID:	Leaks (OGI):	NORM ( $\mu\text{R/hr}$ ; max):	Date Reported <sup>1</sup> :	Date Addressed <sup>2</sup> :
Former AST A	NA	NA	NA	NA
AST B	None	110*	NA	NA
AST C	None	<15	NA	NA
AST D	None	<15	NA	NA

**General Notes:** ASTs B, C, and D noted as temporary. NORM exceedance on AST B not noted as an Action Item at this time due to being temporary. Future verification suggested. No other concerns noted.

<sup>1</sup> – Reported to operator; <sup>2</sup> – If reported to Modern by operator/City; \*NORM exceeding 50  $\mu\text{R/hr}$  not labeled

## INSPECTION RESULTS – COMPRESSORS OR ANCILLARY EQUIPMENT

Location ID:	Leaks (OGI):	NORM ( $\mu\text{R/hr}$ ; max):	Date Reported <sup>1</sup> :	Date Addressed <sup>2</sup> :
Ancillary A	None	<15	NA	NA
Ancillary B	None	<15	NA	NA
Ancillary C	None	20	NA	NA
Ancillary D	None	350	NA	NA
Ancillary E	None	200	NA	NA
Ancillary F	None	<15	NA	NA
Ancillary G	None	20	NA	NA
Ancillary H	None	25	NA	NA
Ancillary I	None	35	NA	NA
Ancillary J	None	35	NA	NA
Ancillary K	None	30	NA	NA
Ancillary L	None	25	NA	NA
Ancillary M	None	<15	NA	NA
Ancillary N	None	20	NA	NA
Ancillary O	None	<15	NA	NA
Ancillary P	None	<15	NA	NA
Ancillary Q	None	<15	NA	NA
Ancillary R	None	<15	NA	NA

**General Notes:** The NORM observations were labeled prior to Modern's inspection. No other concerns noted.

<sup>1</sup> – Reported to operator; <sup>2</sup> – If reported to Modern by operator/City; \*NORM exceeding 50  $\mu\text{R/hr}$  not labeled



# PADSITE INSPECTION REPORT

Padsite Name: Robson Ranch 600 (#150)

Inspection Date: 06/04/21

Operator: Bedrock

Inspectors: ZT, DW



**MODERN GEOSCIENCES**

TRUSTED ENVIRONMENTAL ADVISORS

## FENCELINE INSPECTION RESULTS:

Meteorological Data	Avg. Wind Direction (to): N	Avg. Wind Speed (mph): 4.8	Bar. Pressure ("Hg): 29.27
	Avg. Temp (°F): 80.4	Humidity (%): 61.8	Precipitation: N/A

Fenceline Screening Criteria:	Yes	No	N/A	Upwind Observations:	Downwind Observations:
<sup>1</sup> PID > 100 ppbv (0.1 ppmv)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<1 ppbv	<1 ppbv
<sup>1</sup> Radiation > 20 µR/hr?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<15 µR/hr	<15 µR/hr
<sup>1</sup> H <sub>2</sub> S > 80 ppbv (0.08 ppmv)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<5 ppbv	<5 ppbv
<sup>1</sup> Methane > 500 ppmv?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<5 ppmv	<5 ppmv
<sup>2</sup> PM <sub>2.5</sub> > 35 µg/m <sup>3</sup> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6.86 µg/m <sup>3</sup>	7.06 µg/m <sup>3</sup>
<sup>2</sup> PM <sub>10</sub> > 150 µg/m <sup>3</sup> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	16.41 µg/m <sup>3</sup>	18.56 µg/m <sup>3</sup>
<sup>3</sup> Perimeter Noise Monitoring > 65 dBA?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Perimeter Result: <u>52.0</u> dBA (File #: 534) Comments: None Primary Source(s): ambient	
<sup>3, 4</sup> Alternate Noise Monitoring > 65 dBA?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Alternate Result: <u>N/A</u> dBA (File #: N/A) Comments: N/A Primary Source(s): N/A	

Other perimeter/fenceline observations suggestive of releases or concerns: None

Comments: In addition to direct screening of the above sound level, Modern calculated pure tone levels consistent with ordinance requirements. Based on this evaluation, ordinance thresholds were not exceeded. A depiction of pure tone comparisons is included in the attached graph(s).

### Notes:

- 1- Represents the maximum discrete sampling result recorded by Modern across fenceline screening alignment.
- 2- Represents the approximately 10-minute average result recorded by Modern. Sample point selected by field professional as a conservative representation of fenceline conditions at the time of sampling.
- 3- Represents the approximately 1 to 5-minute average result recorded by Modern. Sample point selected by field professional as a conservative representation of fenceline conditions at the time of sampling. When available, site-specific ambient levels are presented (default is 65 dBA).
- 4- Perimeter monitoring occurred at the padsite fenceline closest to an apparent occupied structure. If an exceedance of our screening criteria is noted at this point, a secondary (alternate) monitoring event is conducted approximately 100 feet from perimeter toward the nearest occupied structure to allow an understanding of site-specific attenuation. Further monitoring may be needed to evaluate tonal compositions and longer time-weighted averages.

### General Inspection Program Notes:

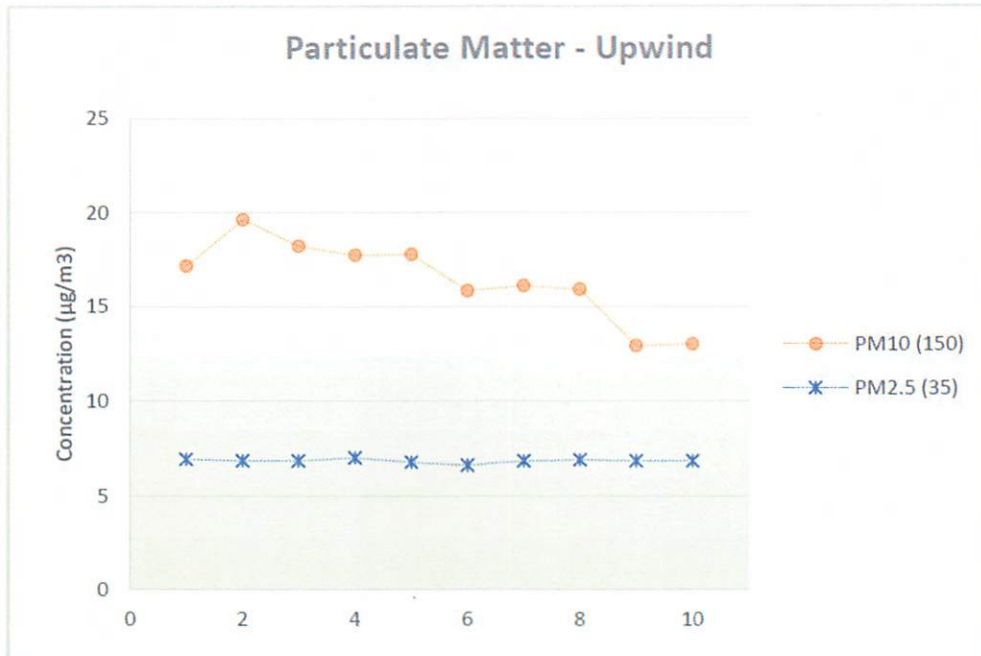
- 1- Modern confirmed operation of all field equipment in accordance with manufacture specifications and Modern's standard operating procedures prior to field inspection efforts. This included the use of zero and prepared calibration samples.
- 2- Modern's services were performed in a manner consistent with a level of care and skill ordinarily exercised by other members of our profession practicing in the same locality, under similar conditions and at the time the services were performed. The scope of services performed was in accordance with the scope of work agreed with by our client, as set forth in our proposal and related authorization agreement(s).
- 3- Laws, regulations and professional standards applicable to Modern's services are continually evolving. Techniques are, by necessity, often new and relatively untried. Different professionals may reasonably adopt different approaches to similar problems. As such, our services are intended to provide our client with a source of professional advice, opinions and recommendations based on a limited number of field observations and tests, collected and performed in accordance with the generally accepted practice that exists at the time, and may depend on, and be qualified by, information gathered previously by others and provided to Modern by our Client. Modern does not warrant the work of third parties supplying information used in the report.
- 4- The monitoring results collected as part of these services represent field conditions at the time of inspection or monitoring only. Samples or monitoring data collected at other times may reveal different results that are representative of site conditions during other periods of time. The use of monitoring efforts is not intended to replace laboratory methodology, but rather provide data indicative of when additional efforts may be warranted. Modern's air sampling is consistent with current regulatory guidance and/or manufacturer specification. For a higher level of certainty, our monitoring methods can be expanded over longer periods of time and/or supplemented by use of a state-accredited laboratory when evaluation of specific COCs is desired or further verification is needed.



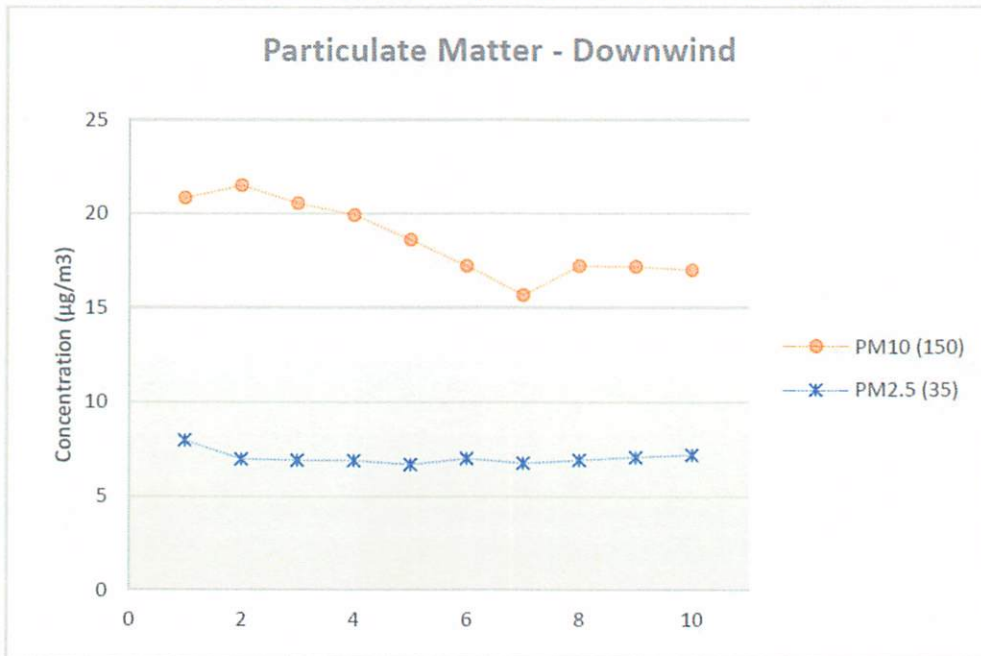
**MODERN GEOSCIENCES**  
TRUSTED ENVIRONMENTAL ADVISORS

## DATA GRAPHS



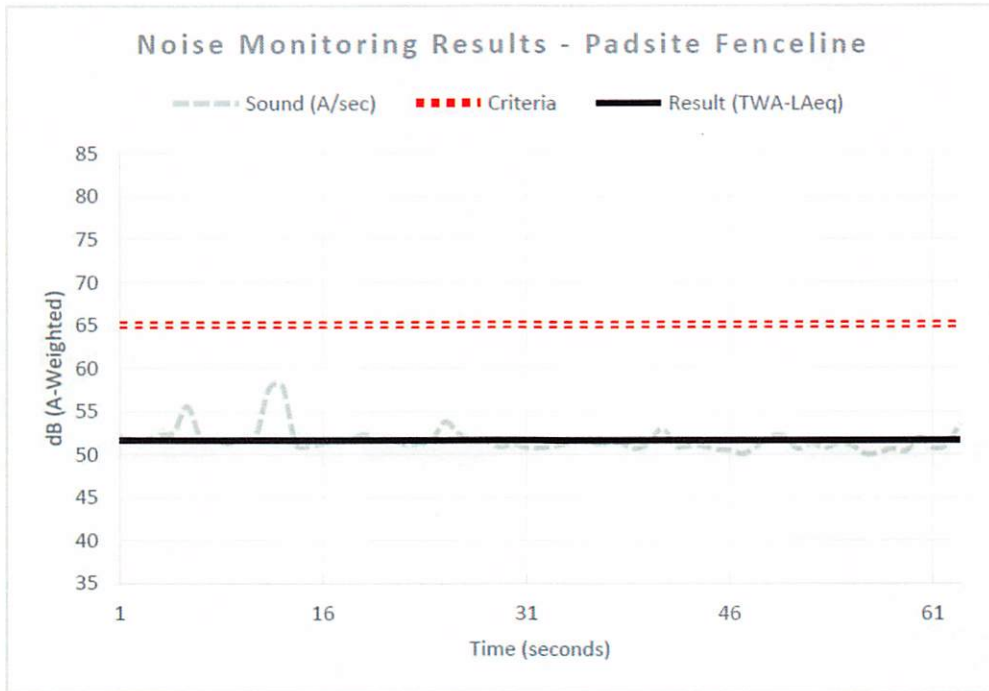


**Fig. R1: Particulate Matter – Upwind Results (10 Minute Sampling)**

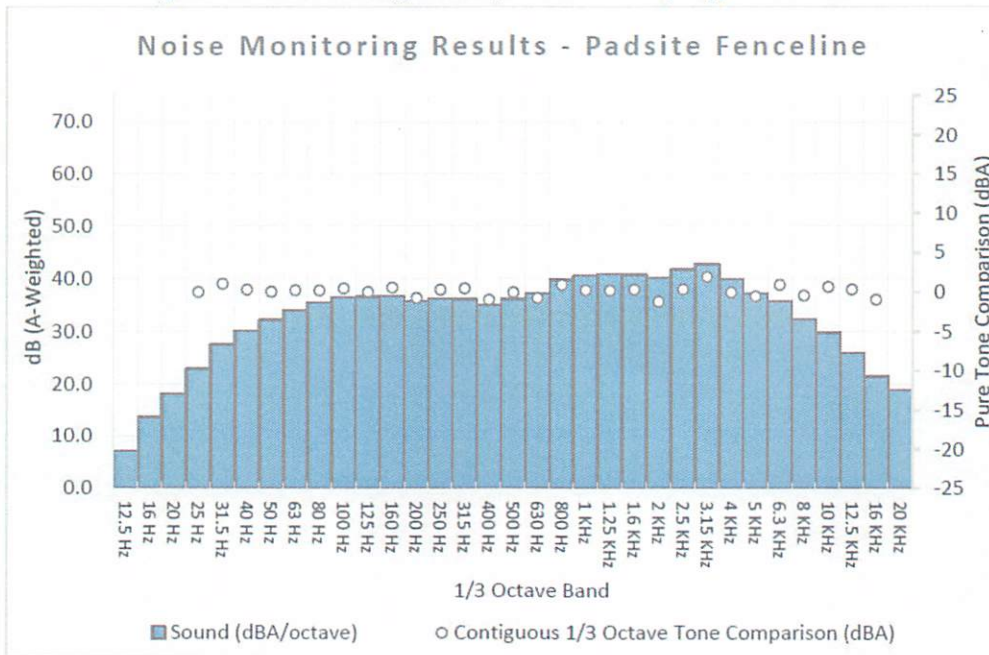


**Fig. R2: Particulate Matter – Downwind Results (10 Minute Sampling)**

The above particulate monitoring data provides a summary of both upwind and downwind observations during Modern's monitoring activities. Please see the attached figures for sampling locations.



**Fig. R3: Noise Monitoring Results (1-5 Minute Sampling) – File No. 534**



**Fig. R4: Noise Monitoring Results (1-5 Minute Sampling) – File No. 534**

The above noise monitoring data provides a summary of Modern’s sampling event. The general design criteria of 65 dBA is presented for comparison purposes only (time-weighted average; Leq). Please see the attached figures for sampling location(s).



**MODERN GEOSCIENCES**  
TRUSTED ENVIRONMENTAL ADVISORS

# PHOTOGRAPHIC DOCUMENTATION





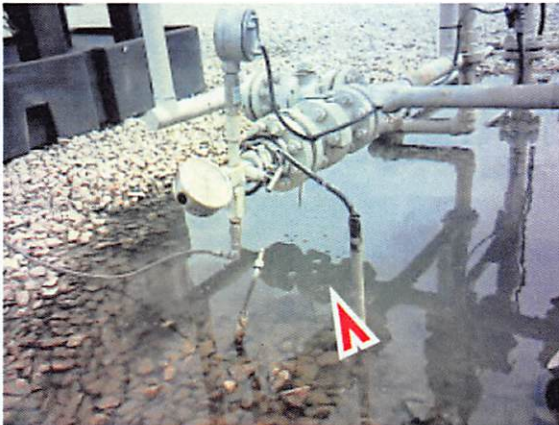
## PHOTOGRAPHIC DOCUMENTATION



No. 1 Leak observed at a kimray valve on Well C.



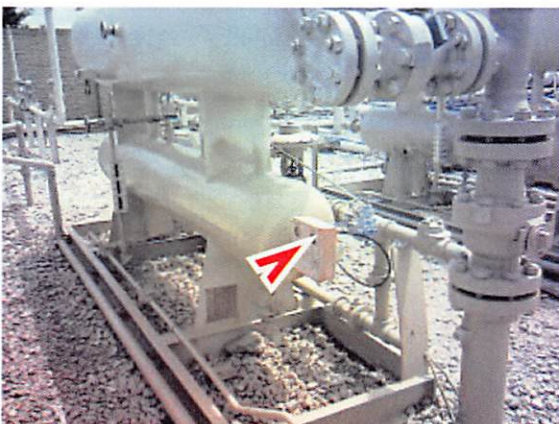
No. 2 Leak observed at a kimray valve on Well C in High Sensitivity Mode.



No. 3 Leak observed at a subgrade leak (bubbling) on Well L.



No. 4 Leak observed at a subgrade leak on Well L in High Sensitivity Mode.



No. 5 Leak observed at an actuator on Separator B.

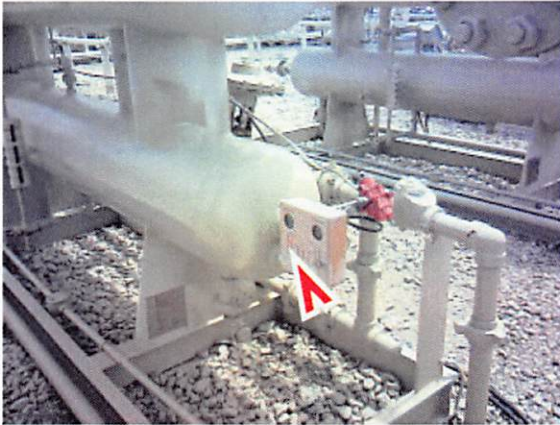


No. 6 Leak observed at an actuator on Separator B in High Sensitivity Mode.





## PHOTOGRAPHIC DOCUMENTATION



No. 7 Leak observed at an actuator on Separator E.



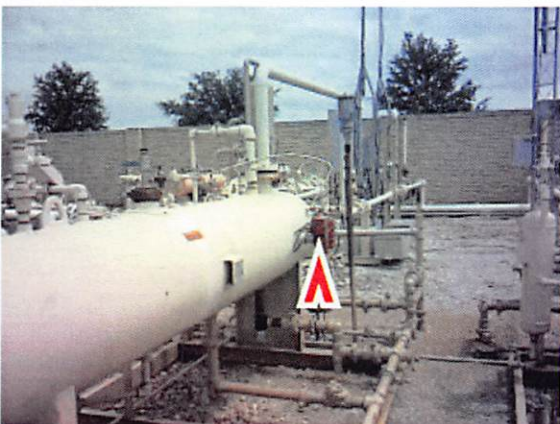
No. 8 Leak observed at an actuator on Separator E in High Sensitivity Mode.



No. 9 Leak observed at an actuator on Separator F.



No. 10 Leak observed at an actuator on Separator F in High Sensitivity Mode.



No. 11 Leak observed at an actuator on Separator L.



No. 12 Leak observed at an actuator on Separator L in High Sensitivity Mode.





## PHOTOGRAPHIC DOCUMENTATION



No. 13 View of wells.



No. 14 Additional view of wells.



No. 15 View of separators.



No. 16 Additional view of separators.



No. 17 View of ASTs.



No. 18 View of ancillary.



**MODERN GEOSCIENCES**  
TRUSTED ENVIRONMENTAL ADVISORS

## FIGURES



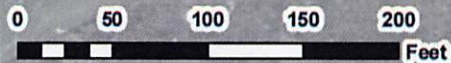
Aerial Source: Microsoft Corporation © and its data suppliers

Bedrock			
Well ID	RRC ID	Well ID	RRC ID
A	254787	G	261261
B	264414	H	261299
C	260995	I	260969
D	263882	J	260570
E	260614	K	257966
F	260722	L	257956



**Legend:**

- Well
- Separator
- Temporary AST
- Former AST
- Ancillary Equipment
- Upwind Air Sampling Point
- Downwind Air Sampling Point
- Fenceline Screening Alignment
- Sound Sampling Point
- Wind Direction (to)
- Observation Path
- Padsite
- Denton County Parcels



This figure was prepared using data from a variety of sources. No warranty is made as to the accuracy or completeness of data provided through third parties. All data contained herein is subject to change without notice. This figure is not intended for use as a legal survey or construction design document. If denoted, wind direction represents dominant wind direction observed during field activities.



**MODERN GEOSCIENCES**  
TRUSTED ENVIRONMENTAL ADVISORS

PROJECT NO.	21125
DRAWN:	07.22.21
DRAWN BY:	CS/LG
CHECKED BY:	KT
FILE NAME:	150_M_BR_RR600_Padsite_210722.mxd

**PADSITE MAP**

Robson Ranch 600 Pad (No. 150)  
9500 Robson Ranch Road  
Denton, Texas

FIGURE

**1**




# Building A (multi-purpose occupancy) / 26 Nov 2019 / Marc Abbey

Fire Marshal Inspection Checklist for Business

Complete

Inspection score	Failed items	Created actions
<b>96.23%</b>	<b>2</b>	<b>0</b>
Facility Name Building A (multi-purpose occupancy)		
Facility Owner/Managed by RealTea Inc.		
Facility Contact email/phone <a href="mailto:real.tea.inc@realteabuilding.com">real.tea.inc@realteabuilding.com</a>		
Inspection Date and Time 📅 26th Nov, 2019 ⌚ 12:41 PM +08		
Inspected by Marc Abbey		
Address E Second St Long Beach Alamitos Beach CA 90802 United States (33.76727670301146, -118.1705471991863)		


Fire Marshal Inspection Checklist for Business / Emergency Lights

In Good Condition	No
<p>– Notes</p> <p>One emergency light is blinking when tested.</p> <p>– Photos</p>  <p>Photo 2</p>	

Fire Marshal Inspection Checklist for Business / Operating Features

Employees Trained in Fire Extinguisher Use	No
<p>– Notes</p> <p>A new employee that had completed new hire training didn't do fire extinguisher training.</p>	

Occupancy

Any Changes from Last Inspection	Yes
- Notes New storage room near the old fire exit - Photos 	
Photo 1	
Occupant Load	100
Egress Capacity	170
Any Renovations	Yes
- Notes Only one. The new storage room.	
High Rise	No
Windowless	No
Underground	No

Building Services


Utilities	+ Electricity + Water + Gas
Utilities in Good Working Order	Yes
Elevators	Yes
Fire Service Control	Yes
Elevator Recall	Yes
Heating System Type	Electric
Heating System In Good Working Order	Yes



Emergency Generator	Yes
Size 24 kw	
Last Date Tested 📅 15th Oct, 2019	
Date of Last Full Load Test 📅 15th Oct, 2019	
In Automatic Position	Yes
Fire Pump	Yes
Date Last Tested 📅 15th Oct, 2019	
In Automatic Position	Yes


### Emergency Lights

1 Failed

Operable	Yes
Tested Monthly	Yes
In Good Condition	No
<p>– Notes</p> <p>One emergency light is blinking when tested.</p> <p>– Photos</p>  <p>Photo 2</p>	
Emergency lighting appears to be adequate for the facility	Yes

### Exit Signs

Illuminated	Yes
-------------	-----

Readily Visible	Yes
- Photos  Photo 3	

**Fire Alarm**

Fire Alarm Installed	Yes
Location of Panel Concierge	
Coverage	Total
Monitored	Yes
• Method Manual monthly monitoring	
• Fire Department Notification	Yes
Type of Initiation Devices	Smoke
Date of Last Test 📅 15th Jul, 2019	
Inspection Date Current	Yes
Fire alarm system is operational	Yes

**Fire Extinguishers**

Proper Type for Hazard Protected	Yes
Mounted Properly	Yes
Inspection Date Current	Yes
Serviced and adequate in number	Yes

**Hazardous Areas**

Protected by	+ Extinguishing System + Fire-Resistance Rated Separation
Doors have Self-Closers	Yes

Residential Separated	Yes
1-Hour Fire-Resistance Rating	Yes
Fire sprinkler system(s) is operational	Yes
Parking Structure Separated	Yes

### Housekeeping

Areas Free of Excessive Combustibles	Yes
Smoking Regulated	Yes
<p>– Notes</p> <p>It's a strictly no smoking facility</p>	
Housekeeping/storage practices are acceptable	Yes

### Means of Egress

Readily Visible	Yes
Clear and Unobstructed	Yes
Two Remote Exits Available	Yes
• Travel Distance within Limits	Yes
• Common Path of Travel within Limits	Yes
• Dead-Ends within Limits	Yes
Adequate Illumination	Yes
All Exit Enclosures Free of Storage	Yes
Doors Swing in the Direction of Egress Travel (where required)	Yes
• Panic/Fire Exit Hardware Operable	Yes
• Doors Open Easily	Yes
• Self-Closers Operable	Yes
• Doors Closed or Held Open with Automatic Closers	Yes
Corridors and Aisles of Sufficient Size	Yes
Stairwell Allows Re-Entry	Yes
Mezzanines	Yes
Proper Exits	Yes


Exit doors are unlocked	Yes
-------------------------	-----

**Operating Features**

1 Failed

Employees Trained in Fire Extinguisher Use	No
<p>– Notes</p> <p>A new employee that had completed new hire training didn't do fire extinguisher training.</p>	
Fire Drills Conducted	Yes
<p>• Date of Last Fire Drill</p> <p>📅 7th Oct, 2019</p>	
Records Protected	Yes
Hydrants are operational	Yes

**COMPLETION**

<p>Comments/Recommendations</p> <p>Aside from the one defective emergency light and the new employee that is yet to be trained for fire safety, all is compliant. Scheduled a training session with the employee for this afternoon. The defective emergency light is being replaced as I complete this report.</p>	
<p>Fire Marshal Name and Signature</p> <div style="display: flex; align-items: center;"> <div style="border: 1px solid gray; border-radius: 10px; padding: 10px; margin-right: 20px;">  </div> <div> <p>Marc Abbey</p> <p>26th Nov, 2019 1:02 PM +08</p> </div> </div>	

Photos

3 Photos



Photo 1



Photo 2



Photo 3



**City Council Agenda  
December 6, 2021**

**Agenda Item:** **Resolution** **(Action Item)**

**Agenda Description:**

Discuss, consider, and act on a resolution of the City Council of the City of New Fairview, Texas, regarding a financing agreement for the purpose of procuring a hot box, crack seal unit, seal coat unit, a trailer, vehicles, and safety inspection equipment.

**Background Information:**

The Council tabled this item on November 15, 2021 and asked to bring it back in the next meeting.

---

The Council approved the expenditure of \$108,000 for streets improvement equipment in the current budget, as well as the expenditure of \$110,000 for public safety equipment (offset by inspection fee revenues). Staff recommends expanding the purchase of streets improvement equipment to include a seal coat unit, which will allow staff to remove a portion of the maintenance component of the bond-funded 2021 streets improvement project, allowing for a cost savings and greater value for our dollars.

In addition, staff recommends financing these expenditures to push the initial cost to the City into the next fiscal year, limiting our first two annual payments to \$35,000 each year, with the balance being paid over the next four-to-six-years. The additional cost the City would incur (financing/interest costs) would be from \$7,740 per year (\$46,500 over six years) to \$8,500 per year (\$34,000 over four years). This allows the City to put the budgeted \$218,000 into the 2021 streets improvement project, helping to close the funding gap between the total project cost (\$4.2 million) and the budgeted funds (\$3.31 million), while absorbing the payments with increased revenues due to the increases in the tax base.

**Financial Information:**

TERM:	<b><u>4 Annual Pmts.</u></b>	<b><u>5 Annual Pmts.</u></b>	<b><u>6 Annual Pmts.</u></b>
INTEREST RATE:	2.788% <i><b>Fixed</b></i>	2.891% <i><b>Fixed</b></i>	2.986 % <i><b>Fixed</b></i>
PAYMENTS #1-2 AMOUNTS:	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00
REMAINING PAYMENT AMOUNTS:	\$ 169,444.48	\$ 115,003.83	\$ 87,857.48

**City Contact and Recommendation:**

Ben Nibarger, City Administrator  
 Approve resolution

**Attachments:**

Financing Proposal  
 Resolution  
 Previous Materials and Presentation



November 10, 2021

Mr. Ben Nibarger  
New Fairview City Hall  
(817) 638-5366  
[Ben@newfairview.org](mailto:Ben@newfairview.org)

Dear Mr. Nibarger,

Thank you for the opportunity to present proposed financing for the City of New Fairview. I am submitting for your review the following proposed structure:

ISSUER:	City of New Fairview, Texas		
FINANCING STRUCTURE:	Public Property Finance Contract issued under Local Government Code Section 271.005		
EQUIPMENT COST:	\$ 375,000		
TERM:	<b><u>4 Annual Pmts.</u></b>	<b><u>5 Annual Pmts.</u></b>	<b><u>6 Annual Pmts.</u></b>
INTEREST RATE:	2.788% <b><u>Fixed</u></b>	2.891% <b><u>Fixed</u></b>	2.986 % <b><u>Fixed</u></b>
PAYMENTS #1-2 AMOUNTS:	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00
REMAINING PAYMENT AMOUNTS:	\$ 169,444.48	\$ 115,003.83	\$ 87,857.48
PAYMENTS BEGINNING:	One year from signing, annually thereafter		

The above proposal is subject to audit analysis, assumes bank qualification and mutually acceptable documentation. The terms outlined herein are subject to change and rates are valid for fourteen (14) days from the date of this proposal. If funding does not occur within this time period, rates will be indexed to markets at such time.

Our finance programs are flexible and as always, my job is to make sure you have the best possible experience every time you interact with our brand. We're always open to feedback on how to make your experience better. If you have any questions regarding other payment terms, frequencies or conditions, please do not hesitate to call.

Blessings,



Drew Whittington  
Client Services  
Main: 817-421-5400

*The transaction described herein is an arm's length, commercial transaction between you and Government Capital Corporation ("GCC"), in which GCC: (i) is acting solely for its own financial and other interests that may differ from yours; (ii) is not acting as your municipal advisor or financial advisor, and has no fiduciary duty to you with respect to this transaction; and (iii) is not recommending that you take an action with respect to this transaction.*



**RESOLUTION # \_\_\_\_\_**

A RESOLUTION REGARDING A FINANCING AGREEMENT FOR THE  
PURPOSE OF PROCURING A HOT BOX, CRACK SEAL UNIT, SEAL COAT UNIT, A TRAILER,  
VEHICLES, AND SAFETY INSPECTION EQUIPMENT.

WHEREAS, City of New Fairview desires to enter into a certain Financing Agreement, by and between Government Capital Corporation and the City of New Fairview, for the purpose of financing a Hot Box, Crack Seal Unit, Seal Coat Unit, a trailer, Vehicles, and Safety Inspection Equipment. The City of New Fairview desires to designate this Agreement as a "qualified tax-exempt obligation" of the City of New Fairview for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended. The City of New Fairview desires to designate the City Manager, as an authorized signer of the Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW FAIRVIEW:

Section 1. That the City of New Fairview enters into a Financing Agreement with Government Capital Corporation for the purpose of procuring a Hot Box, Crack Seal Unit, Seal Coat Unit, a trailer, Vehicles, and Safety Inspection Equipment.

Section 2. That the Financing Agreement, by and between the City of New Fairview and Government Capital Corporation is designated by the City of New Fairview as a "qualified tax-exempt obligation" for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

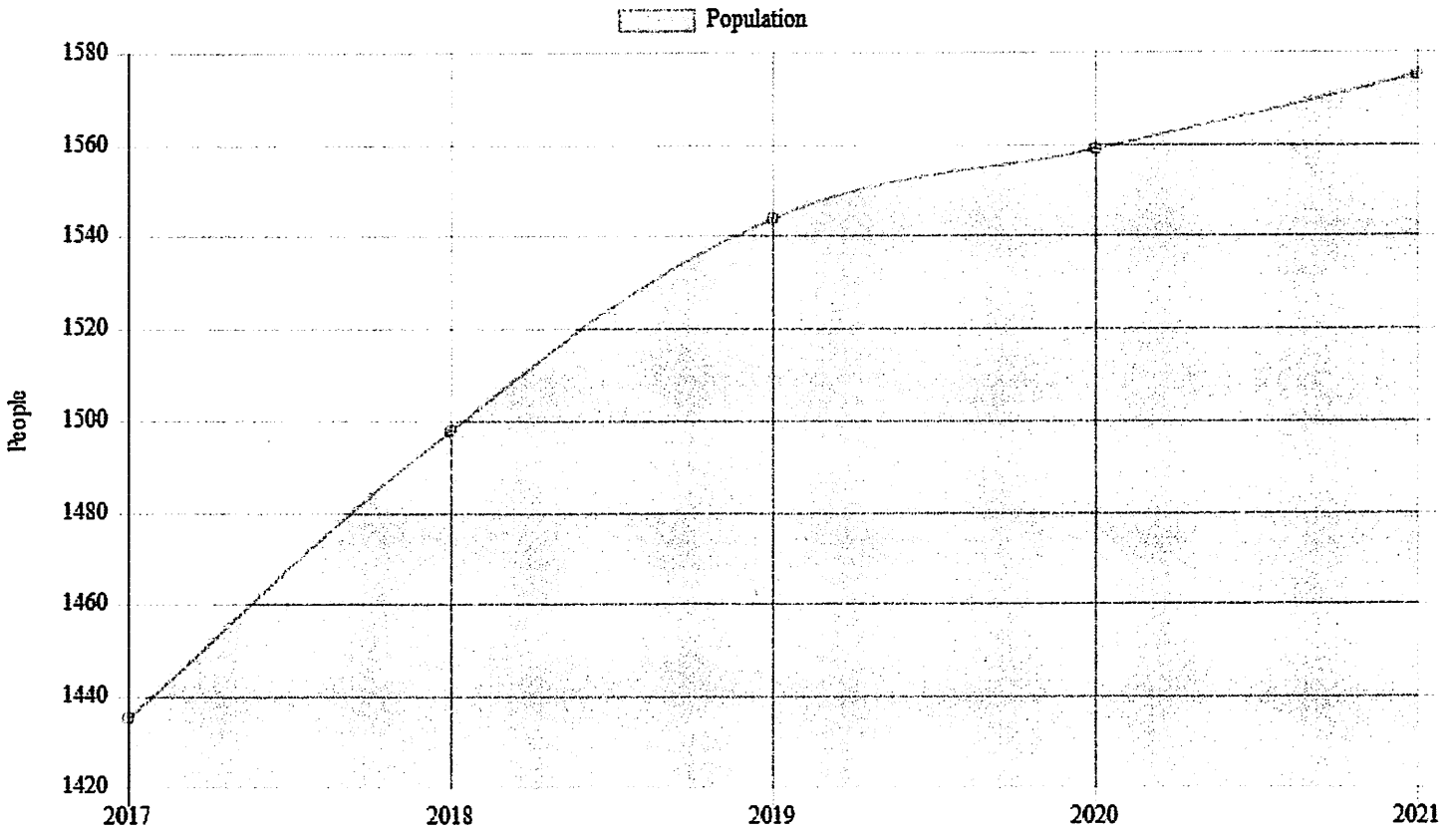
Section 3 That the City of New Fairview designates the City Manager, as an authorized signer of the Financing Agreement, by and between the City of New Fairview and Government Capital Corporation.

Section 4. That should the need arise, if applicable, the City will use loan proceeds for reimbursement of expenditures related to the Property, within the meaning of Treasury Regulation § 1.150-2, as promulgated under the Internal Revenue Code of 1986, as amended

This Resolution has been PASSED upon Motion made by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_ by a vote of \_\_\_\_\_ to \_\_\_\_\_ and is effective this \_\_\_\_\_, 2021.

City of New Fairview	Witness Signature
X	X
_____ Mayor Signature	_____ City Secretary Signature
<u>Printed Name:</u>	<u>Printed Name:</u>
<u>Title:</u> Mayor	<u>Title:</u> City Secretary

Population for New Fairview, City of	
Year	Population
2021	1,575
2020	1,559
2019	1,544
2018	1,498
2017	1,435



**4252 - NEW Fairview, City of (General Obligation Debt)****Report - New Fairview, City of (General Obligation Debt) / Top Ten Taxpayers**

---

Year

2020

[Download to Excel](#)**2020 Total AV: \$156,573,319**

<b>Taxpayer</b>	<b>Property Type</b>	<b>AV</b>	<b>% of total</b>
Devon Energy Productions Co	Oil & Gas	\$21,989,303	14.04 %
PTCAA Texas LP	Gas Station	\$3,588,020	2.29 %
Enlink Midstream Svcs. LLC	Oil & Gas	\$3,263,804	2.08 %
Pilot Travel Centers #1140	Gas Station	\$2,906,510	1.86 %
Dodson Living Trust	Individual Residence	\$2,495,007	1.59 %
Top Flight Steel Inc.	Metal Refinery	\$1,724,940	1.10 %
Oxalis Properties Inc.	Retail Store	\$1,058,752	0.68 %
Repool 11 LLC	Commercial Building	\$1,033,260	0.66 %
Atmos Energy/ Mid-Tex Pipe	Electric Utility/Power Plant	\$1,023,063	0.65 %
Dodjohn LTD	Commercial Building	\$1,002,280	0.64 %
<b>Top 10 Totals:</b>		<b>\$40,084,939</b>	<b>25.60 %</b>



**GOVERNMENT CAPITAL**  
**CORPORATION**

November 1, 2021

Mr. Ben Nibarger  
New Fairview City Hall  
(817) 638-5366  
[Ben@newfairview.org](mailto:Ben@newfairview.org)

Dear Mr. Nibarger,

Thank you for the opportunity to present proposed financing for the City of New Fairview. I am submitting for your review the following proposed structure:

ISSUER:	City of New Fairview, Texas		
FINANCING STRUCTURE:	Public Property Finance Contract issued under Local Government Code Section 271.005		
EQUIPMENT COST:	\$ 175,000		
TERM:	<b><u>3 Annual Pmts.</u></b>	<b><u>4 Annual Pmts.</u></b>	<b><u>5 Annual Pmts.</u></b>
INTEREST RATE:	2.682% <b><i>Fixed</i></b>	2.788% <b><i>Fixed</i></b>	2.891% <b><i>Fixed</i></b>
PAYMENTS #1-2 AMOUNTS:	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00
REMAINING PAYMENT AMOUNTS:	\$ 116,620.24	\$ 59,352.06	\$ 40,307.26
PAYMENTS BEGINNING:	One year from signing, annually thereafter		

The above proposal is subject to audit analysis, assumes bank qualification and mutually acceptable documentation. The terms outlined herein are subject to change and rates are valid for fourteen (14) days from the date of this proposal. If funding does not occur within this time period, rates will be indexed to markets at such time.

Our finance programs are flexible and as always, my job is to make sure you have the best possible experience every time you interact with our brand. We're always open to feedback on how to make your experience better. If you have any questions regarding other payment terms, frequencies or conditions, please do not hesitate to call.

Blessings,



Drew Whittington  
Client Services  
Main: 817-421-5400

The transaction described herein is an arm's length, commercial transaction between you and Government Capital Corporation ("GCC"), in which GCC: (i) is acting solely for its own financial and other interests that may differ from yours; (ii) is not acting as your municipal advisor or financial advisor, and has no fiduciary duty to you with respect to this transaction; and (iii) is not recommending that you take an action with respect to this transaction.



CONTACT:

Bay City Community Development Corporation  
Jessica Russell, Executive Director  
Phone: 979-245-8081  
Email: [jrussell@cityofbaycity.org](mailto:jrussell@cityofbaycity.org)



**GOVERNMENT CAPITAL**  
CORPORATION

CONTACT:

Government Capital Corporation  
Jana Jay, Municipal Finance Specialist  
Phone: 817-722-0217  
Email: [jana.jay@govcap.com](mailto:jana.jay@govcap.com)

**For Immediate Release**

### **Bay City Community Development Corporation Announces Refunding Savings**

**Bay City, Texas (July 2021)** – The Bay City Community Development Corporation announces the recent refunding of two separate debt obligations, one for a training facility and another for land acquisition. “Combining the two into one obligation maximized the savings for Bay City Community Development Corporation,” stated Jessica Russell, Executive Director. With the restructuring, Bay City is able to achieve significant interest savings via today’s low market rates. Government Capital Corporation, Southlake, Texas provided the refunding structure and refinancing.

“The financing provided by Government Capital Corporation, will allow us optimum budget flexibility. Their experience allowed the refunding to proceed very efficiently,” Ms. Russell commented.

“The current economic environment has development corporations searching for alternative funding options,” stated Jana Jay, Municipal Finance Specialist, Government Capital Corporation. “Our ability to customize this financing was integral to meeting the needs and budget of this client. It was a pleasure to work with Bay City Community Development Corporation on this transaction.”

#### **About Bay City Community Development Corporation**

Bay City Community Development Corporation creates welcoming opportunities for residents and businesses in the city of Bay City. Their goals include providing opportunities for education expansion in their community, developing and encouraging entrepreneurship and leadership in their community, and encouraging new and current businesses to invest in Bay City. To learn more visit [www.visitbaycity.org](http://www.visitbaycity.org)

#### **About Government Capital Corporation**

Government Capital Corporation is a leading public finance firm providing professional financial services to all local governmental entities. Since its founding in 1992, the company has successfully completed thousands of municipal financings exceeding \$4.5 Billion in Texas and across the nation. For more information, visit [www.govcap.com](http://www.govcap.com)

###





**CONTACT:**

Lavon Economic Development Corporation  
Kay Wright, President  
Phone: 469-867-9258  
Email: [kay.wright@lavonedc.com](mailto:kay.wright@lavonedc.com)

**CONTACT:**

Government Capital Corporation  
Stephanie Cates, Senior Vice President  
Phone: 817-722-0214  
Email: [Stephanie.Cates@govcap.com](mailto:Stephanie.Cates@govcap.com)

**For Immediate Release**

**LAVON ECONOMIC DEVELOPMENT CORPORATION PURCHASES LAND FOR "PROJECT MAIN STREET"**

**Lavon, Texas (July 2021)** – The Lavon Economic Development Corporation (LEDC) has acquired a 0.6-acre retail site at 619 Main Street and Lake Road for a "Project Main Street" development. This area will be developed as a retail and/or office building for various small businesses. The LEDC will use this development as a demonstration of the commercial development potential for Lavon. The Lavon EDC has begun the design of the "Main Street Project" and is considering a 2-story, 6,000 square foot facility. Construction is expected to begin in early 2022. Financing was provided by Government Capital Corporation, Southlake, Texas.

"The finance structure provided by Government Capital Corporation was the perfect solution for our project. I appreciate the financial analysis and projections GCC provided for this phase and the construction phase of the project," commented Kay Wright, President, Lavon EDC. "The finance solution provided by Government Capital Corporation was a complete win for LEDC."

"I would like to congratulate Kay Wright and LEDC for their work and foresight," stated Stephanie Cates, Senior Vice President, Government Capital Corporation. "This is a great example of dedicated leaders being responsible with their resources and diligently assessing the needs of and opportunities for the community."

**About Lavon Economic Development Corporation**

Lavon Economic Development Corporation is located in Lavon, Texas and serves a population of more than 4,000 residents. The Lavon City Council adopted the Articles of Incorporation for the LEDC following the approval of the voters, on December 20, 2004. The motto of the LEDC is "We Cultivate Investment and Growth" with their purpose being to develop and market retail, commercial, technology, and manufacturing investments which will benefit Lavon for years to come. To learn more visit [www.lavonedc.com](http://www.lavonedc.com)

**About Government Capital Corporation**

Government Capital Corporation is a leading public finance firm providing professional financial services to all local governmental entities. Since its founding in 1992, the company has successfully completed thousands of municipal financings exceeding \$4.5 billion in Texas and across the country. For more information, visit [www.govcap.com](http://www.govcap.com)

###



**CONTACT:**

Little Elm Economic Development Corporation  
Jennette Espinosa, Executive Director  
Phone: 214-975-0455  
Email: [jke@littleelm.org](mailto:jke@littleelm.org)

**CONTACT:**

Government Capital Corporation  
Kevin Lerner, Senior Vice President  
Phone: 817-421-5400  
Email: [kevin.lerner@govcap.com](mailto:kevin.lerner@govcap.com)

**For Immediate Release**

**Little Elm Economic Development Corporation Breaks Ground on Tinman Social Entertainment Venue**

**Little Elm, Texas (July 2021)** – The Little Elm Economic Development Corporation announces the groundbreaking of, “Tinman Social.” This social entertainment venue is made possible through a Public-Private Partnership. The facility will include ping pong, cornhole, axe throwing, shuffleboard, bowling, and a full-service restaurant and bar with indoor and outdoor seating. The square footage of the facility will be 36,000 square feet. Financing for the project was provided by Government Capital Corporation, Southlake, Texas.

“We have completed multiple projects with Government Capital Corporation over the past ten years and we know we can always count on their experience,” stated Jennette Espinosa, Executive Director, “The finance structure Government Capital Corporation provided was a complete success for us.”

“We are excited to work with Little Elm EDC to finance this entertainment venue,” said Kevin Lerner, Senior Vice President of Government Capital Corporation. “The venue provides a win-win project for the City of Little Elm. It not only provides entertainment for residents but, will also generate revenue for the City.”

**About Little Elm Economic Development Corporation**

Little Elm Economic Development Corporation’s mission is to advance economic development in Little Elm by creating new commercial businesses, new tourism opportunities, and new jobs to Little Elm. The EDC partners with the Town to facilitate the vision and manage the progression of the Town Center development. To learn more visit [www.littleelmedc.com](http://www.littleelmedc.com)

**About Government Capital Corporation**

Government Capital Corporation is a leading public finance firm providing professional financial services to all local governmental entities. Since its founding in 1992, the company has successfully completed thousands of municipal financings exceeding \$4.5 billion in Texas and across the country. For more information, visit [www.govcap.com](http://www.govcap.com)

###





**Contact:**

Palestine Economic Development

Lisa Denton, Executive Director

Phone: 903-729-4100

Email: [ldenton@palestine-tx.org](mailto:ldenton@palestine-tx.org)

For Immediate Release



**GOVERNMENT CAPITAL**  
**CORPORATION**

**Contact:**

Government Capital Corporation

Stephanie Cates, Senior Vice President Client Services

Phone: 817-722-0214

Email: [stephanie.cates@govcap.com](mailto:stephanie.cates@govcap.com)

## **Palestine EDC Upgrades Broadband Service**

**Palestine, Texas (February 2021)** – The Palestine Economic Development Corporation announces the upgrade of fiber broadband service to the businesses and residents of Palestine. The improved high-speed internet and telephone project is scheduled to be completed summer 2021. Etex Communications, L.P., Gilmer, Texas provided the fiber optics for the project. Financing was provided by Government Capital Corporation, Southlake, Texas.

Lisa Denton, Executive Director of the Palestine Economic Development Corporation stated, “The EDC is excited to participate in this much needed improvement to our communication and broadband capabilities, which will benefit the overall quality of life for our community, as well as promote continued business growth for the foreseeable future. Government Capital Corporation’s experience and expertise with economic development financing was a great value to our project.”

“I want to congratulate Lisa Denton and the Palestine EDC Board for their foresight and leadership in the implementation of this project”, commented Stephanie Cates, Government Capital Senior Vice President Client Services. “This project is an excellent example of the EDC Board and City working together in collaboration for the constituents. We take great pride assisting Texas municipalities meet their goals and objectives.”

### **About Palestine Economic Development Corporation**

Palestine EDC is a Type B Development Corporation located in Anderson County in the Piney Woods of East Texas, equally distanced between Dallas and Houston. Palestine is a charming town that boasts more than 1,800 historic sites, the Texas State Railroad and Texas Dogwood Trails Celebration, and has a tradition of small-town hospitality. The Palestine EDC is proud to develop business opportunities for the more than 18,000 citizens of the City of Palestine. For more information visit [www.palestinetexas.net](http://www.palestinetexas.net)

### **About Government Capital Corporation**

Government Capital Corporation is a leading public finance firm providing professional financial services to all local governmental entities. Since its founding in 1992, the company has successfully completed thousands of municipal financings exceeding \$4 billion in Texas and across the country. For more information, visit [www.govcap.com](http://www.govcap.com).

###





**CONTACT:**

Early Municipal Development District  
Larry McConn, Asst. City Admin/Economic Development Director  
Phone: 325-643-5451  
Email: [lmccconn@earlytx.net](mailto:lmccconn@earlytx.net)  
Website: [www.earlytx.net](http://www.earlytx.net)

**CONTACT:**

Government Capital Corporation  
Stephanie Cates, Client Services Vice President  
Phone: 817-722-0214  
Email: [stephanie.cates@govcap.com](mailto:stephanie.cates@govcap.com)  
Website: [www.govcap.com](http://www.govcap.com)

**For Immediate Release**

## **EARLY MUNICIPAL DEVELOPMENT DISTRICT ANNOUNCES THE ACQUISITION OF REAL PROPERTY**

**Early, Texas (December 2019)** - The Early Municipal Development District announces the acquisition of a new property. The newly procured property at 405 Early Boulevard, will serve as an incentive to promote economic growth in the community. Government Capital Corporation was selected as the most cost-effective financing solution for the real estate acquisition.

Mr. Larry McConn, Assistant City Administrator and Economic Development Director of Early Municipal Development District stated, "This project was simplified with the expertise and experience of Government Capital Corporation."

"I'd like to acknowledge all the hard work of Larry McConn and the City for the completion of this timely project. It was a pleasure working with everyone at Early Municipal Development District. We take great pride in provide financial services to Texas Municipal Development Districts," commented Stephanie Cates, Government Capital Client Services Vice President.

### **About Early Municipal Development District**

Early Municipal Development District located in Brown County, was formed in 2016 to replace Early Economic Development Corporation. The city is named after Walter U. Early, a local attorney who donated land for the school district, boasts a population over 2,762. The Pecan Bayou, a tributary of the Colorado River runs past the western end of the city. An another amenity is Heartland Mall , the first mall in the area, is located in Early. For more information, visit [www.earlytx.net](http://www.earlytx.net).

### **About Government Capital Corporation**

Government Capital Corporation is a leading public finance firm providing professional financial services to all local governmental entities. Since its founding in 1992, the company has successfully completed thousands of project financings exceeding \$4 Billion dollars in Texas and across the nation. For more information, visit [www.govcap.com](http://www.govcap.com).



**Contact:**

Coleman Economic Development  
Kim Little, Executive Director  
Phone: 325-625-3669  
Email: edcolemanedc@outlook.com

**Contact:**

Government Capital Corporation  
Drew Whittington, Client Services Associate  
Phone: 817-421-5400  
Email: drew.whittington@govcap.com

**For Immediate Release**

## **COLEMAN EDC ANNOUNCES NEW SPORTS FIELDS**

**COLEMAN, TEXAS (May 2020)** – The Coleman Economic Development Corporation announced the construction of baseball, softball and t-ball fields, including parking for each field, located at 2916 5<sup>TH</sup> Avenue in Coleman, Texas. The new complex replaces sports fields which had served the community for fifty years. The project is scheduled to be completed Fall of 2020 with a Ribbon Cutting First Pitch ceremony. SW Architects was selected to provide the architectural design for the construction. Government Capital Corporation was selected as the most cost-effective financing solution for this project.

Kim Little, Executive Director of Economic Development Corporation of Coleman stated, “This project is a public-private partnership between the Coleman Youth Sports Association, City of Coleman, Coleman EDC and private donors. The youth of Coleman County and the City of Coleman will have first-class fields and facilities. This project was streamlined with the expertise and experience of our financing partner, Government Capital Corporation,” stated Kim Little.

This project is an excellent example of community leaders working together in collaboration for the youth of Coleman. I want to congratulate Kim Little and the Coleman EDC Board for their foresight and leadership in the implementation of this important project with the upgraded sports facilities. The Coleman county youth and families will enjoy these facilities for many years,” stated Drew Whittington, Client Services Associate of Government Capital Corporation.

### **About Coleman Economic Development Corporation**

Coleman EDC is a Type A Development Corporation authorized to undertake Type B projects located in North-Central Texas, 52 miles northwest of Abilene. The Coleman EDC is proud to develop business opportunities for the more than 5,000 citizens of the City of Coleman. For more information visit [www.colemanedc.com](http://www.colemanedc.com)

### **About Government Capital Corporation**

Government Capital Corporation is a leading public finance firm providing professional financial services to all local governmental entities. Since its founding in 1992, the company has successfully completed thousands of municipal financings exceeding \$4 billion in Texas and across the country. For more information, visit [www.govcap.com](http://www.govcap.com).

###





**GOVERNMENT CAPITAL**  
CORPORATION

**CONTACT:**

La Feria Industrial Development Corporation  
Juan Ortiz, Executive Director  
Phone: 956-797-2261  
Email: [jortiz@cityoflaferia.com](mailto:jortiz@cityoflaferia.com)

**CONTACT:**

Government Capital Corporation  
Drew Whittington, Vice President  
Phone: 817-722-0212  
Email: [Drew.Whittington@govcap.com](mailto:Drew.Whittington@govcap.com)

For Immediate Release

**LA FERIA INDUSTRIAL AND ECONOMIC DEVELOPMENT CORPORATION ANNOUNCES THE  
CONSTRUCTION OF PUBLIC WORKS FACILITY AND INFRASTRUCTURE IMPROVEMENTS**

**La Feria, Texas (October 2021)** – The La Feria Industrial Development Corporation (LFIDC) and La Feria Economic Development Corporation (LFEDC) joined together in launching a new public works facility and infrastructure improvement project. The project will greatly enhance the future growth within the city and promote economic development. With construction already underway, the anticipated completion is set for spring 2022. Financing was provided by Government Capital Corporation, Southlake, Texas.

“Government Capital Corporation was able to create a specific loan structure that allowed both of our entities to join together to complete a much needed project,” commented Juan Ortiz, Executive Director, La Feria Industrial Development Corporation. “Government Capital’s experience and expertise in the unique challenges facing economic development corporations was of tremendous value to us.”

“I would like to congratulate Mr. Ortiz and the La Feria IDC and EDC on the completion of their recent project,” stated Drew Whittington, Vice President, Government Capital Corporation. “This project will benefit the constituents of La Feria for many years.”

**About La Feria Industrial Development Corporation and La Feria Economic Development Corporation**

La Feria Industrial and Economic Development Corporation is located in La Feria, Texas and serves a population of more than 7,100 residents. The La Feria City Council adopted the Articles of Incorporation for the LFEDC and LFIDC following the approval of the voters, in 2009. To learn more visit [www.cityoflaferia.com](http://www.cityoflaferia.com)

**About Government Capital Corporation**

Government Capital Corporation is a leading public finance firm providing professional financial services to all local governmental entities. Since its founding in 1992, the company has successfully completed thousands of municipal financings exceeding \$4.8 billion in Texas and across the country. For more information, visit [www.govcap.com](http://www.govcap.com)

###



**GOVERNMENT CAPITAL**  
**CORPORATION**

*Partial Listing of Economic Development District Transactions*

Anna EDC	Purchase & Building Renovation
Baird CDC	Utility Line Expansion
Bay City CDC	Construction Project & Refunding
Bowie EDC	Technology Center Improvements
Bonham EDC	Park Expansion / Improvements
Canyon EDC	EDC Office Complex Land & Building Purchase
Clarendon EDC	Theatre Renovation & Pool Construction
Coleman EDC	Sports Complex Lighting
Early EDC	Refunding
Eastland EDC	Airport Park Renovations
Encinal EDC	Park Improvements
Fairfield EDC	Infrastructure Improvements
Ferris EDC	Land Acquisition
Godley EDC	Park Rehabilitation
Grandview EDC	EDC / City Hall Renovation
Gun Barrel EDC	Property Acquisition
Italy EDC	Property Acquisition
Krugerville EDC	Property Acquisition
Lavon EDC	Land Procurement
Little Elm EDC	TinMan Social Entertainment Venue
Mathis EDC	Citywide Improvements
Ore City EDC	Park Improvements
Palestine EDC	Citywide Broadband Expansion
Quitman EDC	Refunding
San Saba EDC	Park Improvements
Sansom Park EDC	Property Acquisition
Sweeny EDC	Refunding
Sulphur Springs EDC	Refunding
Troup CDC	Property Acquisition
Van EDC	Texas Leverage Fund Refinance
Van Alstyne EDC	Land Acquisition
White Oak EDC	Ball Park Expansion
Wortham EDC	Park Expansion







**GOVERNMENT CAPITAL**  
**CORPORATION**

**Partial Listing of Texas Towns and Cities**

City of Alton	City of Dawson	City of La Feria	City of Richmond
City of Alvarado	City of Dayton	City of La Joya	City of River Oaks
City of Alvin	City of Decatur	City of La Vernia	City of Robstown
City of Anahuac	City of De Leon	City of La Villa	City of Rogers
City of Anson	City of Del Rio	City of Ladonia	City of Roma
Town of Anthony	City of Dilley	City of Lake Dallas	City of Roman Forest
City of Aransas Pass	City of Dublin	City of Leonard	City of Rosebud
City of Athens	City of Early	City of Little Elm	City of Rosenberg
City of Aubrey	City of East Tawakoni	City of Little River-Academy	City of Royse City
City of Baird	City of Eastland	City of Lucas	City of Runaway Bay
City of Balch Springs	City of Eden	City of Madisonville	City of Runge
City of Ballinger	City of Edcouch	City of Malakoff	City of Sabinal
City of Bandera	City of Edna	City of Manvel	City of Saint Jo
City of Bangs	City of Electra	City of Marble Falls	City of San Benito
City of Bartlett	City of Elsa	City of Mart	City of San Saba
Town of Bartonville	City of Emory	City of Mason	City of Sanger
City of Batesville	City of Falfurrias	City of Mathis	City of Sansom Park
City of Bedford	City of Fate	City of Maypearl	City of Schulenberg
City of Beeville	City of Ferris	City of Melissa	City of Seagraves
City of Bellevue	City of Flatonia	City of Memphis	City of Seguin
City of Bells	City of Florence	City of Mexia	City of Selma
City of Benavides	City of Floresville	City of Midlothian	City of Silsbee
City of Bertram	City of Freer	City of Milano	City of Slaton
City of Bevil Oaks	City of Friendswood	City of Munday	City of Sour Lake
City of Bishop	City of Fulshear	City of Murchinson	City of South Houston
City of Blanco	City of George West	City of Mustang Ridge	City of South Padre Island
City of Blue Mound	City of Goliad	City of Natalia	City of Southlake
City of Bowie	City of Graham	City of New Braunfels	City of Stephenville
City of Boyd	City of Grandview	City of Newark	City of Stinnett
City of Brady	City of Grand Saline	City of Newton	City of Stafford
City of Brazoria	City of Granite Shoals	City of Nixon	City of Stamford
City of Bridgeport	City of Grapeland	City of Nocona	City of Sweeny
City of Brownsboro	City of Greenville	City of Nolanville	City of Taft
City of Buffalo	City of Groesbeck	City of Oak Point	City of Taylor
City of Bullard	City of Gun Barrel City	City of Omaha	City of Teague
City of Caddo Mills	City of Gunter	City of Onalaska	City of Tolar
City of Cameron	City of Hale Center	City of Paducah	City of Trenton
City of Caney City	City of Hamlin	City of Palestine	City of Trinidad
City of Canton	Town of Hickory Creek	City of Panhandle	City of Troup
City of Canyon	City of Hidalgo	City of Payne Springs	City of Tye
City of Celina	City of Hillsboro	City of Pearl	City of Tyler
City of Chandler	City of Holland	City of Pearsall	City of Uvalde
City of Childress	City of Honey Grove	Town of Pecos City	City of Valley View
City of Chillicothe	City of Hubbard	City of Penitas	City of Van
City of Clifton	City of Hudson	City of Perryton	City of Van Alstyne
City of Clyde	City of Huntington	City of Pilot Point	Town of Van Horn
City of Coleman	City of Hutto	City of Point Comfort	City of Venus
City of Collinsville	City of Italy	City of Port Arthur	City of Vidalia
City of Colorado City	City of Jacksonville	City of Portland	City of Wharton
Town of Combes	City of Jefferson	City of Poteet	City of Whitehouse
City of Combine	City of Joshua	City of Pottsboro	City of Whitesboro
City of Corinth	City of Justin	City of Prairie View	City of Whitewright
City of Corrigan	City of Katy	City of Presidio	City of Whitney
City of Cottonwood Shores	City of Keene	City of Progreso	City of Willow Park
City of Cotulla	City of Kemp	City of Quanah	City of Wills Point
City of Crockett	City of Kenedy	City of Reno	City of Winfield
City of Cross Plains	City of Kennedale	City of Richland Hills	City of Winnsboro
City of Crowell	City of Kermit	City of Riesel	City of Wolfe City
City of Crystal City	City of Kerens	City of Rio Grande City	City of Woodville
City of Cuero	City of Killeen	City of Rising Star	City of Wortham
City of Danbury	City of La Coste	City of Rhome	City of Wylie



**GOVERNMENT CAPITAL**  
**CORPORATION**

**Partial Listing of Texas School Districts**

Abernathy ISD	Damon ISD	La Feria ISD	Robinson ISD
Aldine ISD	Darrouzett ISD	La Villa ISD	Robstown ISD
Aledo ISD	Dawson ISD	Laneville ISD	Rogers ISD
Alpine ISD	Dell City ISD	Leakey ISD	Roosevelt ISD
Aquilla ISD	Diboll ISD	Liberty Hill ISD	Rotan ISD
Aransas County ISD	Dilley ISD	Little Elm ISD	Roxton ISD
Aransas Pass ISD	Dodd City ISD	London ISD	Sabine ISD
Aspermont ISD	Driscoll ISD	Lone Oak ISD	Salado ISD
Atlanta ISD	Edcouch-Elsa ISD	Lovelady ISD	San Benito CISD
Avalon ISD	Elgin ISD	Luling ISD	San Saba ISD
Avery ISD	Elkhart ISD	Lyford CISD	San Perlita ISD
Avinger ISD	Eula ISD	Mansfield ISD	Sanger ISD
Axtell ISD	Fayetteville ISD	Marfa ISD	Santa Gertrudis ISD
Balmorhea ISD	Ferris ISD	Marlin ISD	Santa Maria ISD
Bandera ISD	Flatonia ISD	Mason ISD	Santa Rosa ISD
Bangs ISD	Florence ISD	Mathis ISD	Santo ISD
Banquete ISD	Frost ISD	May ISD	Sierra Blanca ISD
Bartlett ISD	Gainesville ISD	McDade ISD	Smithville ISD
Bay City ISD	Gladewater ISD	McMullen County ISD	Snook ISD
Beaumont ISD	Gonzales ISD	Memphis ISD	Spring Branch ISD
Ben Bolt-Palito Blanco ISD	Goodrich ISD	Mercedes ISD	Springtown ISD
Benavides ISD	Gorman ISD	Merkel ISD	Stamford ISD
Bland ISD	Graford ISD	Midway ISD	Stanton ISD
Bloomburg ISD	Grand Saline ISD	Miller Grove ISD	Sterling City ISD
Blooming Grove ISD	Grape Creek ISD	Millsap ISD	Strawn ISD
Blue Ridge ISD	Greenwood ISD	Mineral Wells ISD	Sulphur Bluff ISD
Blum ISD	Groesbeck ISD	Muenster ISD	Sunnyvale ISD
Boling ISD	Gunter ISD	Murchison ISD	Sweetwater ISD
Bosqueville ISD	Hallettsville ISD	Natalia ISD	Taft ISD
Bowie ISD	Hallsville ISD	Navasota ISD	Tarkington ISD
Brazos ISD	Hardin ISD	Needville ISD	Taylor ISD
Breckenridge ISD	Harleton ISD	Newcastle ISD	Temple ISD
Bridge City ISD	Harper ISD	New Sumerfield ISD	Texhoma ISD
Bridgeport ISD	Harrold ISD	New Waverly ISD	Tioga ISD
Broadbuss ISD	Haskell CISD	Nixon-Smiley CISD	Tom Bean ISD
Brooks County ISD	Hempstead ISD	Nordheim ISD	Trent ISD
Bynum ISD	Hermleigh ISD	North Zulch ISD	Trenton ISD
Campbell ISD	Highland Park ISD	Offen ISD	Trinity ISD
Carlisle ISD	Holland ISD	Olney ISD	Tuloso-Midway ISD
Carroll ISD	Houston ISD	Onalaska ISD	Valley View ISD
Cayuga ISD	Hubbard ISD	Paint Creek ISD	Van ISD
Celeste ISD	Huckabay ISD	Pearsall ISD	Venus ISD
Chapel Hill ISD	Hutto ISD	Perrin-Whitt CISD	Water Valley ISD
Chester ISD	Ingleside ISD	Perryton ISD	Waxahachie ISD
Chisum ISD	Iola ISD	Pharr-San Juan-Alamo ISD	Welaco ISD
Clarksville ISD	Iraan-Sheffield ISD	Plainview ISD	West ISD
Coldsprings-Oakhurst CISD	Jefferson ISD	Prairiland ISD	West Orange Cove CISD
Coleman ISD	Jim Hogg County ISD	Pringle-Morse CISD	Westhoff ISD
Commerce ISD	Jourdanton ISD	Quanah ISD	Westphalia ISD
Comstock ISD	Judson ISD	Quitman ISD	Wheeler ISD
Corrigan-Camden ISD	Kemp ISD	Randolph Field ISD	White Oak ISD
Covington ISD	Kendleton ISD	Raymondville ISD	Winfield ISD
Crockett County CISD	Kingsville ISD	Riesel ISD	Wink-Loving ISD
Cross Roads ISD	Kirbyville CISD	Rio Grande City CISD	Wolfe City ISD
Cumby ISD	Kopperl ISD	Rio Hondo ISD	Ysleta ISD
Daingerfield-Lone Star ISD	Kountze ISD	Rivercrest ISD	Zephyr ISD





**GOVERNMENT CAPITAL**  
**CORPORATION**

Partial Listing of Emergency Service Districts

Austin County ESD No. 2	Harris County ESD No. 14	Nacogdoches County ESD No. 1
Bastrop County ESD No. 1	Harris County ESD No. 16	Newton County ESD No. 3
Bastrop County ESD No. 2	Harris County ESD No. 17	Nueces County ESD No. 1
Bexar County ESD No. 4	Harris County ESD No. 24	Nueces County ESD No. 2
Bexar County ESD No. 5	Harris County ESD No. 25	Nueces County ESD No. 4
Bexar County ESD No. 6	Harris County ESD No. 46	Orange County ESD No. 1
Bexar County ESD No. 7	Harris County ESD No. 47	Orange County ESD No. 2
Bexar County ESD No. 11	Harris County ESD No. 60	Orange County ESD No. 4
Brazos County ESD No. 2	Hays County ESD No. 4	Parker County ESD No. 1
Brazos County ESD No. 3	Hays County ESD No. 5	Parker County ESD No. 3
Brazos County ESD No. 4	Hays County ESD No. 6	Parker County ESD No. 6
Burnet County ESD No. 5	Hays County ESD No. 8	Parker County ESD No. 7
Caldwell-Hays ESD No. 1	Henderson County ESD No. 1	Parker County ESD No. 8
Cass County ESD No. 2	Henderson County ESD No. 4	Parker County ESD No. 9
Chambers County ESD No. 1	Henderson County ESD No. 5	Rains County ESD No. 1
Comal County ESD No. 1	Henderson County ESD No. 6	Smith County ESD No. 2
Comal County ESD No. 3	Hill County ESD No. 1	Travis County ESD No. 1
Comal County ESD No. 5	Hill County ESD No. 2	Travis County ESD No. 2
Denton County ESD No. 1	Houston County ESD No. 2	Travis County ESD No. 5
Duval County ESD No. 1	Jackson County ESD No. 3	Travis County ESD No. 6
Ellis County ESD No. 1	Jefferson County ESD No. 3	Travis County ESD No. 7
Ellis County ESD No. 2	Jefferson County ESD No. 4	Travis County ESD No. 10
Ellis County ESD No. 3	Jim Wells County ESD No. 1	Travis County ESD No. 11
Ellis County ESD No. 9	Johnson County ESD No. 1	Tyler County ESD No. 1
Fort Bend County ESD No. 5	Kenedy County ESD No. 1	Waller-Harris ESD No. 200
Frio County ESD No. 1	Liberty County ESD No. 7	Williamson County ESD No. 2
Galveston County ESD No. 2	Limestone County ESD No. 1	Williamson County ESD No. 4
Hardin County ESD No. 2	Limestone County ESD No. 2	Williamson County ESD No. 5
Hardin County ESD No. 5	Medina County ESD No. 1	Williamson County ESD No. 6
Harris County ESD No. 1	Medina County ESD No. 5	Williamson County ESD No. 7
Harris County ESD No. 2	Montgomery County ESD No. 2	Williamson County ESD No. 10
Harris County ESD No. 5	Montgomery County ESD No. 3	Wilson County ESD No. 1
Harris County ESD No. 7	Montgomery County ESD No. 4	Wilson County ESD No. 2
Harris County ESD No. 9	Montgomery County ESD No. 7	Wilson County ESD No. 3
Harris County ESD No. 10	Montgomery County ESD No. 12	Wise County ESD No. 1



*Trust isn't given to just anyone. Trust is earned.*



### **Partial Listing of Texas Appraisal Districts**

Angelina County Appraisal District	Kleberg County Appraisal District
Aransas County Appraisal District	La Salle County Appraisal District
Bandera Central Appraisal District	Limestone County Appraisal District
Brazoria County Appraisal District	Maverick County Appraisal District
Brewster County Appraisal District	McLennan County Appraisal District
Burleson County Appraisal District	Nueces County Appraisal District
Burnet County Appraisal District	Ochiltree Appraisal District
Callahan County Appraisal District	Oldham County Appraisal District
Collin Central Appraisal District	Presidio County Appraisal District
Comal Appraisal District	Real County Appraisal District
Cooke County Appraisal District	San Saba County Appraisal District
Coryell County Appraisal District	Shelby County Appraisal District
Dallas Central Appraisal District	Smith County Appraisal District
Denton County Appraisal District	Taylor County Property Appraisal District
Dimmit Central Appraisal District	Travis County Appraisal District
Fannin County Appraisal District	Tyler County Appraisal District
Hamilton County Appraisal District	Upton County Appraisal District
Haskell County Appraisal District	Val Verde County Appraisal District
Hill County Appraisal District	Victoria County Appraisal District
Hunt County Appraisal District	Wharton County Appraisal District
Kerr Central Appraisal District	Zavala County Appraisal District





**GOVERNMENT CAPITAL**  
**CORPORATION**

**Partial Listing of Completed Transactions for Texas Counties**

Austin County	Kenedy County
Bee County	Kleberg County
Bosque County	La Salle County
Brewster County	Lamar County
Brooks County	Lampasas County
Burleson County	Limestone County
Callahan County	Live Oak County
Cameron County	Llano County
Colorado County	Matagorda County
Comanche County	Mills County
Crane County	Montague County
Crockett County	Montgomery County
Culberson County	Moore County
Dallam County	Navarro County
Delta County	Newton County
Denton County	Nueces County
Eastland County	Parker County
Edwards County	Parmer County
Ellis County	Polk County
Fannin County	Presidio County
Franklin County	Rains County
Frio County	Reagan County
Gillespie County	Red River County
Gray County	Reeves County
Grimes County	Refugio County
Hamilton County	Roberts County
Hansford County	Sabine County
Hartley County	San Augustine County
Haskell County	Sherman County
Hemphill County	Somervell County
Henderson County	Terrell County
Hill County	Val Verde County
Hudspeth County	Van Zandt County
Jackson County	Waller County
Jefferson County	Webb County
Jim Hogg County	Willacy County
Jim Wells County	Wood County
Jones County	Zapata County
Kendall County	Zavala County





# The New Fairview Procedures & Decorum Policy

*"I will never bring reproach upon my hallowed arms, nor will I desert the comrade at whose side I stand, but I will defend our altars and our hearths, alone or supported by many. My native land I will not leave a diminished heritage, but greater and better than when I received it. I will obey the current statute and authorities and I am convinced of the institutions of the founding people, and so should the people of the world be founded in the same way. If anyone tries to overthrow the constitution or disobeys it, I will not permit him, but will come to its defense, alone or supported by many. I will honor the religion of my fathers. Let the gods be my witness: Agraulus, Enyalius, Ares, Zeus, Thallo, Auxo, Hegemone."*

*The Ephebic Oath was taken by the young men of ancient Athens when they became of age to assume the responsibility of citizenship*

# Table of Contents

<b>Introduction and Summary</b>	3
<b>Definitions</b>	4
<b>Sec. 1-100 – Authority</b>	5
<b>Sec. 1-110 – City Council Agenda</b>	5
<b>Sec. 1-111 – Planning &amp; Zoning Commission Agenda</b>	6
<b>Sec. 1-120 – Types of Meetings</b>	6
<b>Sec. 1-130 – Quorum</b>	7
<b>Sec. 1-140 – Order of Business</b>	7
<b>Sec. 1-150 – General Procedures</b>	9
<b>Sec. 1-160 – Decorum</b>	12
<b>Sec. 1-170 - Staff Relations</b>	16
<b>Sec 1-180 – Council and Media Relations</b>	17
<b>Sec. 1-190 – Statements by public officials regarding litigation</b>	18
<b>Sec 1-200 - Non-Exclusive Rules</b>	18
<b>Sec 1-210 – Disbursement of Council Requested Information</b>	18
<b>Sec. 1-220 – Policy Enforcement</b>	18

# Introduction and Summary

The New Fairview City Council is the governing body for the City of New Fairview; therefore, they must bear the initial responsibility for the integrity of governance. The Council is responsible for its own development, both as a body and as individuals, its responsibilities, its own discipline, and its own performance. The policy that was developed and adopted was designed to ensure effective and efficient governance.

This policy will address Mayor and Council relations, Council and Staff relations, and Council and media relations. By adopting these guidelines for elected officials, we acknowledge our responsibility to each other, to our professional staff, and to the public. The Council will govern the City in a manner associated with a commitment to the preservation of the values and integrity of representative local government and democracy, and a dedication to the promotion of efficiency and effective governing. The following statements will serve as a guide and acknowledge the commitment being made in this service to the community:

1. The Council has as high priorities the continual improvement of the member's professional ability and the promotion of an atmosphere conducive to the fair exchange of ideas and policies among members.
2. The Council will endeavor to keep the community informed on municipal affairs; encourage communication between the residents and the Council; strive for strong working relationships among neighboring municipalities and elected officials.
3. In its governance role, the Council will continue to be dedicated to friendly and courteous relationships with Staff, other Council members, and the public, and seek to improve the quality and image of public service.
4. The Council will also strive to recognize its responsibility to future generations by addressing the interrelatedness of the social, cultural, and physical characteristics of the ties of the community when making policies.
5. Finally, each Council member will make a commitment to improving the quality of life for the individual and the community and to be dedicated to the faithful stewardship of the public trust.

## Definitions

**Attendance** - for the purposes of a regularly scheduled City Council meeting of New Fairview, attendance is defined as being present for roll call throughout the entirety of the meeting until adjournment.

## Sec. 1-100 – Authority

Pursuant to the provisions of the Ordinances of the City of New Fairview, Texas, the City Council shall enact rules of procedure for all meetings of the City Council of the City of New Fairview, Texas, which shall be in effect upon their adoption by the City Council and until such times as they are amended or new rules adopted. These rules of procedures shall serve as general guidelines for Council conduct and meeting protocols.

Additionally, these general rules and guidelines shall govern the procedures and decorum of all Council appointed boards, commissions, committees, or other advisory bodies. References specific to the Council, Mayor, Mayor Pro Tem, or Council member duties and responsibilities shall apply to the advisory body, Chair, Vice Chair, and members respectively.

## Sec. 1-110 – City Council Agenda

- (a) The City Administrator is responsible for creating and processing the agenda and agenda materials for City Council meetings. The City Administrator will submit agenda materials as appropriate for review by the City Attorney. The City Secretary is responsible for preparing and posting the agenda and assembling and distributing the agenda packets.
- (b) The Mayor or two Council Members may direct the City Administrator in writing to place an item on an agenda for a regular City Council meeting, special meeting, or work session for discussion only. Items must be submitted to the City Administrator no later than noon on the Monday preceding the week of the City Council meeting.
- (c) The City Council, during any scheduled regular or special meeting or work session, may direct the City Administrator to place an item on a future agenda.
- (d) Any two Council Members may request an item to be placed on the agenda for discussion. Should extraordinary staff time be required to address a requested agenda item, the City Administrator will place the item on a future Council agenda for direction and discussion prior to investing the extraordinary amount of staff time and communicate this decision to those requesting the item.
- (e) Agenda items placed on the agenda by the Mayor or members of the City Council previously considered and whereby action was taken by the City Council may not be placed on a future agenda for reconsideration within six months of such action unless either: (1) directed by a majority of the City Council to the City Administrator during any scheduled regular or special meeting or work session; or (2) directed by the Mayor and one Council Member in writing to the City Administrator. In all cases, at least one member of the City Council who is requesting that the item be renewed on an agenda shall have been on the prevailing side of the previous vote on the item.

Further, items placed on the agenda by the Mayor or members of the City Council for discussion and/or action whereby no action was taken by the City Council may not be placed on a future agenda for discussion within six months, unless either: (1) requested in writing by three members of the Council; or (2) three Council members direct staff to add the item to an upcoming agenda during a Council meeting.

## Sec. 1-111 – Planning & Zoning Commission Agenda

(a) The City Administrator is responsible for creating and processing the agenda and agenda materials for Planning & Zoning Commission (P&Z) meetings. The City Administrator will submit agenda materials as appropriate for review by the City Attorney. The City Secretary is responsible for preparing and posting the agenda and assembling and distributing the agenda packets.

(b) The Chair and two members may direct the City Administrator in writing to place an item on an agenda for a regular P&Z meeting, special meeting, or work session for discussion only. Items must be submitted to the City Administrator no later than noon on the Monday preceding the week of the P&Z meeting.

(c) The P&Z, during any scheduled regular or special meeting or work session, may direct the City Administrator to place an item on a future agenda.

(d) Any two Commissioners may request an item to be placed on the agenda for discussion. Should extraordinary staff time be required to address a requested agenda item, the City Administrator will place the item on a future P&Z agenda for direction and discussion prior to investing the extraordinary amount of staff time and communicate this decision to those requesting the item.

## Sec. 1-120 – Types of Meetings

(a) *Regular Meetings:* The City of New Fairview regular City Council meetings are held on the first Monday of each month, at such time as may be set by the City Council, unless the meeting is rescheduled or canceled. All regular meetings of the City Council will be held in New Fairview Town Hall at 999 Illinois Lane, New Fairview, Texas, or at such other locations as the City Council may, by motion, resolution or ordinance, designate.

(b) *Work Session Meetings:* A work session is a meeting to discuss or explore matters of interest to the City, review and discuss agenda items, meet with City boards, commissions or committee members, City Staff or officers of civic organizations, governing bodies or individuals specifically invited to the session by the Mayor, City Administrator or the Council. These meetings are informational and no formal action shall be taken unless the



posted agenda indicates otherwise. The Mayor may allow any citizen to participate in the discussion at a work session, but only as recognized by the Mayor. The Mayor may end citizen participation in a work session in order to allow the City Council to proceed with the discussion.

If necessary, a work session will normally be scheduled before a regular meeting of the City Council and will be known as the "Pre-Council meeting."

- (c) *Special Meetings:* Special meetings may be called by the Mayor, the City Administrator, or by any two (2) members of the City Council. The call for a special meeting shall be filed with the City Secretary in written form, and the City Secretary shall cause the posting of notice of the meeting as governed by applicable law. The Mayor, City Administrator, or two Council Members may designate a location for the special meeting other than Town Hall as long as the location is open to the public and in compliance with applicable law.
- (d) *Emergency Meeting:* In case of emergency or urgent public necessity, as defined by State law and confirmed by the City Attorney when practical, which shall be expressed in the notice of the meeting, an emergency meeting may be called by the Mayor, City Administrator or his/her designee, or two members of the City Council, and it shall be sufficient if the notice is posted at least two hours before the meeting is convened.
- (e) *Closed Meeting:* The City Council may meet in a closed meeting but only under conditions allowed by applicable law. Details discussed in closed meetings shall be considered confidential and shall not be discussed or disclosed outside the meeting.
- (f) *Recessed Meetings.* Any meeting of the City Council may be recessed to a later time provided that no recess shall be for a period longer than twenty-four hours from the time the meeting is recessed.

## Sec. 1-130 – Quorum

A quorum at a regular meeting of the City Council will be established by the presence of three members of the Council. A quorum at a special or emergency meeting of the City Council will be established by the presence of four members of the Council. The Mayor shall not count as a Council Member for the establishment of a quorum.

## Sec. 1-140 – Order of Business

The Regular City Council meeting will be generally conducted in the following order unless otherwise specified. If the Mayor or any member of Council wishes to change the order of business, a proper motion must be made followed by a second and then passed by the affirmative

vote of a majority of the Council Members present and voting. An executive session may be held at any time during a meeting pursuant to applicable State law.

(a) *Regular Meeting Agenda:*

- (1) Call to Order – Chair officially calls the meeting to order.
- (2) Pledge of Allegiance – Each agenda of a regularly scheduled City Council meeting shall provide an item for the recital of the “Pledge of Allegiance” to both the United States flag and the Texas flag.
- (3) Public with Business – The time for the public to address the City Council on any subject. However, the City Council cannot discuss items presented under Public with Business nor take any action thereon other than consideration of the placement of the said item on a future agenda as a discussion item or refer the item to Staff for research and possible future action, unless the item presented is an item on the posted agenda for the meeting. Each speaker will be allowed three (3) minutes to speak. Speakers are not permitted to yield their time to others but are encouraged to inform the City Council if they are speaking on behalf of a larger group.
- (4) Old Business – Business items pending from previous City Council meetings. Members of the public may speak on any item under Old Business. They will be allowed three (3) minutes.
- (5) New Business – New or amended ordinances, resolutions, or policies that the Mayor, City Council Members or City Staff wish to have the City Council consider. Members of the public may speak on any item under New Business. They will be allowed three (3) minutes.
- (6) Consent agenda - Shall contain routine, non-controversial items that require City Council action but need little or no Council deliberation. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.
- (7) Presentations – The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented to the City Council.
- (8) Discussion Items – Items to be presented or discussed with City Council in order to garner direction from City Council. No action shall be taken on discussion items. Members of the public may speak on any Discussion item. They will be allowed three (3) minutes.
- (9) Executive Session (if needed) – Items to be discussed in the closed meeting under conditions allowed by applicable law. The City Council may not take final action during the executive session. It is understood and agreed that information discussed in the Executive Session is considered confidential and should remain so. Any final action resulting from an Executive Session discussion must be taken during the open public session.
- (10) Adjourn

(b) *Work Session Agenda (if necessary):*

- (1) Discussion of consent items – Council review and discussion of items that are by nature routine and typically require little or no Council deliberation.
- (2) Questions regarding regular agenda items – Council review and discussion of regular agenda items. The Council may ask questions of Staff, receive a brief presentation, and request additional information prior to consideration during the regular meeting.
- (3) Written or verbal presentations or discussions – Council updates and discussions regarding items, some of which may not be included as part of the regular meeting agenda.
- (4) Executive Session (if needed) - Items to be discussed in the closed meeting under conditions allowed by applicable law. The City Council may not take final action during executive session. It is understood and agreed that information discussed in Executive Session is considered confidential and should remain so. Any final action resulting from an Executive Session discussion must be taken during the open public session.
- (5) Adjourn

(c) *Executive Session:*

- (1) Conduct Executive Session – Items to be discussed in a closed meeting under conditions allowed by applicable law. The City Council may not take final action during Executive Session. It is understood and agreed that information discussed in Executive Session is considered confidential and should remain so until the Council takes action in public on the matter. Any final action resulting from an Executive Session discussion must be taken during the open public session.

## Sec. 1-150 – General Procedures

- (a) *General Procedure:* General rules of parliamentary procedure as defined herein, consistent with state law and any applicable City ordinance, statute, or other legal requirements, shall govern the proceedings of the City Council. To the extent not inconsistent with these rules, the City Council shall use Robert's Rules of Order as a general guideline for additional rules of the parliamentary procedure without being a procedural requirement. Notwithstanding the above, failure to abide by, or adhere to, these rules shall not nullify or negate any action by the City Council. These rules of parliamentary procedure are intended solely as a guideline.
- (b) *Chair of Meeting:* The Mayor shall preside over all meetings of the City Council as the Tempore Chair and enforce these rules and procedures during a meeting. In the absence

of the Mayor, the Pro Tempore shall assume the Chair's responsibility at the meeting. In the absence of the Pro Tempore, the Council will choose a Chair for the meeting.

- (c) *Authority of the Chair:* The Chairperson shall make decisions on questions of procedure subject to review respectively by the Council as a whole.
- (d) *Council Deliberations:* The Chair has the responsibility to control the discussion and the order of speakers. Council Members will generally be called upon in the order of the request to speak. Generally, a Council Member may not be recognized to speak subsequently until each Council Member has had an opportunity to obtain the floor. A Council Member holding the floor may address a question to another Council Member and that Council Member may, should they so choose, respond to the question while the floor is still held by the Council Member asking the question.
- (e) *Limits to Deliberations:* After an agenda item is announced by the Chair, the City Council may discuss the item without the need for a motion on the item. Council Members will limit their comments to the subject matter or motion currently being considered.
- (f) *Repetitious Comments Prohibited:* A speaker or Council Member shall not present the same or substantially the same items or arguments to the City Council repeatedly or be repetitious in presenting oral comments. A speaker or Council Member shall not present an argument on a matter previously considered by the City Council at the same session.
- (g) *Obtaining the Floor:* Any member of the Council wishing to speak shall first obtain the floor by making a request for the floor to the Chair. The Chair shall recognize any Council Member who seeks the floor when appropriately entitled to do so.
- (h) *Motions:* Motions may be made by any member of the Council including the Chair. Any member of the City Council may second a motion.
- (i) *Procedures for Motions:* The following is the general procedure for making motions:
  - (1) The item is presented by Staff or others followed by questions and discussion by Council Members.
  - (2) A Council Member who wishes to make a motion shall first obtain the floor.
  - (3) A Council Member who wishes to second a motion shall do so through a request to the Chair.
  - (4) Before a motion can be discussed, it shall be seconded.
  - (5) Once the motion has been properly made and seconded, the Chair shall open the matter for further discussion offering the first opportunity to the moving party and, thereafter, to any Council Member properly recognized by the Chair.

- (j) *Amendments to Motions:* When a motion is on the floor and an amendment is offered, the amendment shall be acted upon prior to acting on the main motion. No motion of a subject other than the agenda item under consideration shall be admitted as an amendment. A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be in order. The action shall be taken on the amended amendment prior to any other action to further amend the original motion.
- (k) *Continuance of Discussion or Hearings:* Any item being discussed or any public hearing at a City Council meeting may, by order, notice, or motion, be continued or tabled to any subsequent meeting.
- (l) *Voting:* All Council Members must vote either “yea” in the affirmative or “nay” in the negative. A present member who does not vote will be officially recorded as a “nay” or negative vote. When a Council Member recused oneself, that Council Member is not counted as present for quorum purposes and is not deemed to be “voting” for purposes of determining whether there has been a “majority vote of those voting and present”.
- (m) *Public Hearings:* The following is the general procedure for conducting public hearings:
  - (1) Staff presents a report.
  - (2) City Council Members may ask Staff questions.
  - (3) The applicant then has the opportunity to present comments, testimony, and/or oral arguments.
  - (4) City Council Members may ask questions of the applicant.
  - (5) The Chair opens the public hearing.
  - (6) Upon opening the public hearing, and before any motion is adopted related to the merits of the issue to be heard, the Chair shall inquire if there is anyone present who desires to speak on the matter which is to be heard or to present evidence regarding the matter.
  - (7) Members of the public are provided with the opportunity for comments and testimony in accordance with Section 1-160 (d) of the City Council Procedures and Decorum Policy.
  - (8) A vote by City Council to close the public hearing upon a motion and second.
  - (9) The applicant may be given the opportunity to respond to questions from the City Council and for closing comments or rebuttal.
  - (10) The City Council deliberates on the issue.

- (11) If the City Council raises new issues through deliberation and a majority of the City Council seeks additional public testimony, additional public comment and testimony are permitted in accordance with Section 1-160 (d) of the City Council Procedures and Decorum Policy.
  - (12) The City Council deliberates and takes action as needed.
  - (13) The Chair announces the final decision of the City Council as applicable.
- (n) *Call for Recess:* The Chair may call for a recess of up to fifteen (15) minutes at regular intervals at appropriate points in the meeting agenda, or if requested by any two (2) Council Members.

## Sec. 1-160 – Decorum

- (a) *General:* During Council meetings, Council Members shall preserve order and decorum, shall not interrupt or delay proceedings, and shall obey the rules of the Council. Council Members shall demonstrate respect and courtesy to one another, to City Staff, and to members of the public appearing before the Council. Council Members shall seek to phrase and communicate all writings, publications, and speeches in a professional and constructive manner.

Council Members may express differing ideas. Equitable representation helps promote the unity of purpose by allowing the public to be informed of each Member's position during his/her term of office and not only during an election campaign.

Members of the Council will not condone any unethical or illegal activity from any Council Member or members of the Staff. All members of the Council agree to uphold the intent of this policy and to govern their actions accordingly.

(b) *Mayoral Responsibilities:*

- (1) The Mayor shall serve as the Chair of all meetings. The Mayor Pro Tempore shall preside in the absence of the Mayor.
- (2) The Mayor shall have a voice in all matters before the Council.
- (3) The Chair is responsible for preserving order and decorum and shall keep the meetings orderly by recognizing each Member for discussion, limiting speaking items, encouraging debate among Members, and keeping discussion limited to the agenda item being considered.
- (4) The Mayor is the official spokesperson for the Council on all matters unless absent, at which time the Mayor Pro Tempore or appropriate designee will assume the

role. The views presented by the Mayor, or the Mayor Pro Tempore in his/her absence, should provide an equitable representation of all Council Members.

- (5) The Chair will encourage all Council Members to participate in Council discussion and give each Member an opportunity to speak before any Member can speak again on the same subject.
- (6) The Mayor is responsible for ensuring that an orientation of all Council Members is conducted following an election. The orientation shall include Council procedures, staff and media relations, current agenda items, municipal leadership training programs, and legal issues governing the behavior of elected officials, etc.

(c) Council Responsibilities

- (1) Each Council Member is responsible for being prepared to discuss the agenda.
- (2) Each Council Member is required to attend a Council Member Orientation and is encouraged to attend at least one Texas Municipal League-sponsored conference each year in order to stay informed on issues facing municipalities.
- (3) It is the responsibility of Council Members to be informed about the action taken by the Council in their absence. In the case of an absence from a work session, the Council Member is responsible for obtaining this information from the City Administrator prior to the Council meeting during which said item is to be voted upon.
- (4) When addressing an agenda item, the Council Member shall first be recognized by the Chair, confine comments to the question under debate, avoid reference to personalities, and refrain from impugning the integrity or motives of any other Council Member or Staff Member during debate or vote.
- (5) Any Council Member may appeal a ruling by the Chair to the Council as a whole. If the appeal is seconded, the person making the appeal may make a brief statement and the Chair may respond. An appeal may generally be debated by the Members, but each Member may speak only once. The affirmative vote of a majority of the Council Members present and voting shall be necessary to approve the motion.
- (6) Any Council Member may ask the Chair to enforce the policy established by the Council. Should the Chair fail to do so, a majority vote of the Council Members present shall require the Chair to enforce the policy.
- (7) When a Council Member is appointed to serve as a liaison to a board, committee or commission, the Council Member is responsible for keeping all Council Members informed of significant activities of that board, committee or commission. The appointed Council Member should report the actions of the board, committee or commission during a work session of the City Council.
- (8) While a member of the Council is speaking, other members shall not hold private discourse or in any manner interrupt the speaker. In all discussions, disrespectful

language and behavior shall be avoided.

- (9) Every member of the Council who shall be present at a meeting, when a vote is called for by the Chair shall vote thereon unless they have recused themselves due to a conflict of interest.
- (a) If a Council member has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:
- (1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
- (2) in the case of a substantial interest in real property, it is reasonably foreseeable that action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.
- (b) The affidavit must be filed with the City Secretary.
- (c) If a Council member is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.
- (10) A Council Member may not represent any third party before any City board or commission.
- (11) All personal communication devices should be placed in a silent mode during any City Council meetings. Personal communication devices shall not be used for communicating City-related business during any City Council meetings.
- (d) *Citizens' participation:* The following rules shall be in force for persons in attendance at all meetings of Council:
- (1) Persons wishing to address the Council during Public with Business or on a particular agenda item shall complete a Public Comment Form and present said form to the City Secretary up to the close of the comment period during which they choose to speak. Speakers shall approach the lectern and give his/her name and address before speaking. Speakers shall address the Mayor and Council with civility that is conducive to appropriate public discussion. All public comments should be addressed to the City Council rather than to individual members. Each speaker will be allowed three (3) minutes to speak. Speakers are not permitted to yield their time to others but are encouraged to inform the City Council if they are speaking on behalf of a larger group. No person shall be allowed to address the



Council more than once per agenda item unless called upon by a City Council Member to do so.

- (2) City Council Members cannot discuss items presented under Public with Business nor take any action thereon other than consideration of the placement of said item on a future agenda as a discussion item or refer the item to City Staff for research and possible future action, unless the item presented is an item on the posted agenda for the meeting.
- (3) Persons may not engage in discussions with the Council during Council deliberations unless specifically asked a question by a Council Member. Persons who have been asked a question by a Council Member must be recognized by the Chair before being allowed to speak. The Chair may end any question and answer session between Council Members and a member of the public in order to facilitate the order of business.
- (4) Persons may present printed material to be included in the Council agenda packets one week prior to a meeting. Persons may present printed material to the City Secretary to distribute to the Council during a meeting.
- (5) Persons may present electronic media during their comments provided that all materials are submitted to the City by 4:00 P.M. the day of the meeting. Files should be emailed to [citysecretary@NewFairview.org](mailto:citysecretary@NewFairview.org). Materials submitted after 4:00 p.m. will be forwarded to City Council following staff review but will not be available to present during the meeting. Any digital presentation material will be included in an individual's 3-minute time limit.
- (6) Persons attending Council meetings shall remain seated or may stand in the back and come and go so long as it does not disrupt the meeting. Persons in attendance shall not carry signs, placards or other items which could block the view of those behind them or be disruptive to the proceedings. No person attending any Council meeting shall delay the proceedings or refuse to obey the orders of the presiding officer.
- (7) Disturbances, transgressions of the rules or disorderly conduct in the Council chamber may cause the transgressor to be removed from the meeting. The Chair of the meeting, shall exercise control over persons who disrupt the meeting in the following ascending order of action:
  - a. Call the person to order, advising that person of the infraction.
  - b. Advise the person that the infraction must cease immediately or the person will be ordered to leave the meeting.
  - c. Order the person to leave the meeting. If the offending person is a member of Council, the Chair shall call for a vote on the expulsion of that member from the meeting, and such vote requires a majority for adoption.  
A police officer may remove an individual or individuals for disrupting a meeting as authorized by Texas Penal Code Section 42.05.

- (8) Persons are encouraged to attend Council meetings. However, the number admitted shall be limited to the fire safety capacity of the Council chamber as determined by the fire chief or designee. If the capacity is surpassed the Council may adjourn the meeting and move its proceedings to a location that will accommodate a larger number of participants.

## Sec. 1-170 - Staff Relations

- (a) In order to ensure proper presentation of agenda items by Staff, questions arising from Council Members after receiving their information packet should be, whenever possible, presented to the City Administrator for Staff consideration prior to the Council meeting. This allows Staff the time to address the Council Member's concern and provide all Council Members with additional information.
- (b) The City Administrator shall designate the appropriate Staff Member to address each agenda item and shall see that each presentation is prepared and presented in order to inform and educate the Council on the issues that require Council action. The presentation should be professional, timely and allow for discussion of options for resolving the issue. As a summary, the Staff Member making the presentation shall make it clear if no Council action is required or present the Staff recommendation as a part of the presentation, and/or present the specific options for Council consideration.
- (c) The City Administrator is directly responsible for providing information to all the Council concerning any inquiries by a specific Council Member that is significant in nature and would be beneficial to all Council Members. If the City Administrator or the Staff's time is being dominated or misdirected by a Council Member, it is the City Administrator's responsibility to inform the Mayor.
- (d) The City Administrator will exhibit the highest professional and ethical behavior. The City Administrator is responsible for the professional and ethical behavior and discipline of his/her Staff. The City Administrator is also responsible for ensuring that the Staff receives the training and information necessary to address the issues facing municipal government.
- (e) Any conflicts arising between the City Staff and the Council will be addressed by the Mayor and the City Administrator.
- (f) All Staff Members shall show one another, each Council Member, and the public, respect, and courtesy at all times. They are also responsible for making objective, professional presentations to ensure public confidence in the process.
- (g) The City Administrator, after an election, will make sure that the Staff has prepared the information needed for the orientation of new Council Members, and inform the Council of any available Texas Municipal League conferences and seminars. The City Administrator

will also be responsible for meeting personally with new Members and informing them about City facilities, policies and procedures.

## Sec 1-180 – Council and Media Relations

Since the democratic form of government is only successful when the citizens are kept informed and educated about the issues facing their municipality, it is imperative the media play an important role in the governmental process. It is through an informed public that progress is ensured and good government remains sensitive to its constituents. These guidelines are designed to help ensure fair relationships with all media reporters. The Council and the City Administrator recognize that the media provides an important link between the Council and the public. It is desired to establish a professional working relationship to help maintain a well informed and educated citizenry.

(a) During the conduct of official business, the news media shall occupy places designated for them or the general public.

(b) All reporters will have access to an agenda and will be furnished support materials needed for clarification if requested.

(c) In order to preserve the decorum and professionalism of Council meetings, the media are requested to refrain from conversing privately with other people in the audience and to conduct any interview with the public outside the meeting room while the Council is in session.

(d) Since each government body conducts business differently, it is requested that all reporters new to Council meetings meet with the City Administrator or the designated media relations representative prior to covering their first meeting to be informed of the policies and procedures to help foster a professional working relationship between the media reporter and the City.

(e) On administrative matters, the City Administrator is the spokesperson, unless he/she has appointed a media relations person to present Staff information on the agenda.

(f) The Mayor, or his/her designee, is the primary spokesperson for the City on matters regarding policy decisions or any Council information pertaining to issues on the agenda. In order to ensure fair treatment of an issue, any clarifications requested by the media on the issue should be addressed after the meeting. When opposing positions have been debated, regardless of the outcome, the public is better informed when all sides have adequate coverage by the media. This lets the public know that the item was seriously debated and options discussed before a vote was taken, and helps build confidence in the democratic process. In respect to each Council Member and the citizens of the City, the views presented by each Council Member should provide equitable representation of all

Members. Even though Council Members may express differing ideas, equitable representation helps promote unity of purpose by allowing the public to be informed of each Member's position during his/her term of office and not only during an election campaign.

## **Sec. 1-190 – Statements by public officials regarding litigation**

When the City of New Fairview is involved in litigation or a legal dispute, Council Members shall refrain from commenting on settlements, appeals or other issues related to the subject until the matter is resolved. The Mayor, City Administrator or City Attorney shall be authorized to provide any public responses or comments, as needed on matters involving litigation.

## **Sec 1-200 - Non-Exclusive Rules**

The rules set forth are not exclusive and do not limit the inherent power and general legal authority of the City Council, or of its presiding officer, to govern the conduct of the City Council meetings as may be considered appropriate from time to time, or in particular circumstances, for purposes of orderly and effective conduct of the affairs of the City.

## **Sec 1-210 – Disbursement of Council Requested Information**

As a general courtesy and to maintain equality in the disbursement of information, documentation or data requested by a Council Member from Staff shall be provided to all members of the Council.

## **Sec. 1-220 – Policy Enforcement**

If a Member(s) of the City Council believes this policy has been violated, the topic shall be placed on a meeting agenda following proper procedure (by City Administrator, Mayor, or two members of the City Council).

A determination of violation shall be stated by the majority vote of those present during the deliberation.

If it is a Member of the Council who is determined to be in violation of this policy, a standard letter of violation signed by the Mayor (or Mayor Pro Tempore, if the letter is going to the Mayor) shall be issued to the person. A copy of the letter shall become a part of the Council Member's official file with the City.

