

MURPHY CITY COUNCIL AGENDA
REGULAR CITY COUNCIL MEETING
SEPTEMBER 15, 2015 AT 6:00 P.M.
206 NORTH MURPHY ROAD
MURPHY, TEXAS 75094



Eric Barna
Mayor

Scott Bradley
Mayor Pro Tem

Owais Siddiqui
Deputy Mayor Pro Tem

Ben St. Clair
Councilmember

Betty Spraggins
Councilmember

Sarah Fincanon
Councilmember

Rob Thomas
Councilmember

James Fisher
City Manager

Susie Quinn
City Secretary

NOTICE is hereby given of a meeting of the City Council of the City of Murphy, Collin County, State of Texas, to be held on September 15, 2015 at Murphy City Hall for the purpose of considering the following items. The City Council of the City of Murphy, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1. CALL TO ORDER

2. INVOCATION & PLEDGE OF ALLEGIANCE

3. ROLL CALL & CERTIFICATION OF A QUORUM

4. PUBLIC COMMENTS

5. PRESENTATIONS

- A. Presentation of Proclamation recognizing September as Leukemia, Lymphoma & Myeloma Awareness Month.
- B. Presentation of Proclamation recognizing October 4, 2015 as DFW Solar Tour Day.
- C. Presentation of financial report and investment report as of August 31, 2015.

6. CONSENT AGENDA

All consent agenda items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the Consent Agenda and voted on separately.

- A. Consider and/or act upon the September 1, 2015 regular meeting minutes.

7. INDIVIDUAL CONSIDERATION

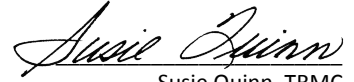
- A. Consider and/or act upon approval of an ordinance adopting the fiscal year 2015-2016 budget and appropriating funds to a sinking fund to pay interest and principal on the City's indebtedness, and appropriating funds to support the City of Murphy, Murphy Municipal Development District and Murphy Community Development Corporation for the fiscal year beginning on October 1, 2015 and ending on September 30, 2016.
- B. Consider and/or act upon ratifying the property tax revenue increase reflected in the 2015-2016 fiscal year budget.
- C. Consider and/or act upon approval of an ordinance levying ad valorem taxes for use and support of the municipal government of the City of Murphy for the fiscal year beginning October 1, 2015 and ending September 30, 2016.
- D. Consider and/or act upon approval of an ordinance amending the zoning classification on approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential – Patio Home and Townhome with a concept plan.
- E. Consider, discuss and/or act on an update to the Southeast Study Project.
- F. Consider and/or act upon approval of an ordinance adopting a new Code of Ordinances for the City of Murphy to be effective immediately upon its adoption.
- G. Discussion with regard to political sign placement.
- H. Discussion of water consumption and billing.
- I. Discussion on the Murphy Police Department Body Worn Camera Policy.

8. CITY MANAGER/STAFF REPORTS

- A. Timbers Nature Preserve
- B. Betsy Lane Road Widening Project
- C. South Maxwell Creek Parallel Trunk Sewer Line
- D. North Murphy Road
- E. "Drug Take Back" day in Murphy

9. ADJOURNMENT

I certify that this is a true and correct copy of the Murphy City Council Meeting Agenda and that this notice was posted on the designated bulletin board at Murphy City Hall, 206 North Murphy Road, Murphy, Texas 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on September 11, 2015 by 4:30 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.



Susie Quinn, TRMC
City Secretary

In compliance with the American with Disabilities Act, the City of Murphy will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 972.468.4011 or squinn@murphytx.org.

Notice of Possible Quorum: There may be a quorum of the Animal Shelter Advisory Committee, the Board of Adjustment, the Building and Fire Code Appeals Board, the Ethics Review Commission, the Murphy Community Development Corporation, the Murphy Municipal Development District Board, the Park and Recreation Board and/or the Planning and Zoning Commission members who may be present at the meeting, but they will not deliberate on any city or board business.

Proclamation

City of Murphy, Texas

Proclamation Recognizing September as Leukemia, Lymphoma & Myeloma Awareness Month

WHEREAS, blood cancers currently afflict more than one million people in the United States, with an estimated 175,200 new cases diagnosed each year, and

WHEREAS, leukemia, lymphoma and myeloma will kill an estimated 52,560 people in the United States this year, and

WHEREAS, The Leukemia & Lymphoma Society (LLS), through voluntary contributions, is dedicated to finding cures for these diseases through research efforts and the support for those that suffer from them, and

WHEREAS, LLS maintains offices in Dallas and Fort Worth to support patients with these diseases and their family members in the State of Texas, and

NOW THEREFORE BE IT RESOLVED, that the City of Murphy joins with LLS in designating the month of September 2015 as Blood Cancer Awareness Month to enhance the understanding of blood related cancers and to encourage participation in voluntary activities to support education programs and the funding of research programs to find a cure for them.



Eric Barna, Mayor
City of Murphy

Proclamation

City of Murphy, Texas

Murphy City Council Proclamation

Whereas, the city of Murphy's vision is to protect and enhance the quality of life for present and future generations and continue to be a vibrant community that epitomizes both economic and environmental sustainability; and,

Whereas, the Dallas/Fort Worth Metroplex has some of the highest ozone and particulate pollution levels in the country; and,

Whereas, North Texas is in a draught requiring water conservation; and,

Whereas, continued North Texas growth will put additional pressure on existing power generation & distribution, as well as water resources; and,

Whereas, on Saturday, October 4, 2014 the DFW metroplex will host the DFW Solar Tour and the general public is invited to tour innovative green homes and buildings around the DFW Metroplex and learn how homeowners and businesses can use solar energy, wind energy, energy efficiency, and other sustainable technologies; and,

Whereas, the city of Murphy commends our residents who have taken initiative to reduce their environmental impact by implementing renewable energy and other sustainable technologies; now,



Therefore, I, Mayor Eric Barna, on behalf of the Murphy City Council, do hereby proclaim October 4, 2014 as DFW Solar Tour Day.

Eric Barna, Mayor
City of Murphy

CITY COUNCIL MINUTES
REGULAR CITY COUNCIL MEETING
SEPTEMBER 1, 2015 AT 6:00 P.M.

1. CALL TO ORDER

Mayor Barna called the meeting to order at 6:00 pm.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Barna led the invocation and led the Pledge of Allegiance to the United States flag.

3. ROLL CALL & CERTIFICATION OF A QUORUM

Susie Quinn, City Secretary, certified a quorum with the following Councilmembers present:

Mayor Eric Barna
Mayor Pro Tem Scott Bradley
Deputy Mayor Pro Tem Owais Siddiqui
Councilmember Ben St. Clair
Councilmember Betty Nichols Spraggins
Councilmember Sarah Fincanon
Councilmember Rob Thomas

4. PUBLIC COMMENTS

Mark Williams, resident, and representative for the Exchange Club let Council know they will be flying the flags on September 11th, 2015 at Murphy Middle School. They will also be flying at Maize Days on September 26th, 2015 and all other patriotic holidays. Williams also invited all Councilmembers and the Mayor to the dedication of documents and open house at Murphy Middle School on September 8th, 2015.

Donna Jenkins, resident, and representative for the Historical Society explained to council they are getting closer to an historical marker for the Murphy Family Cemetery. This will be the 3rd historic cemetery in Murphy. The historic society also received an award for Rescuing Texas History 2015 in the amount of \$1310.45 which will allow preservation of several original Murphy photographs.

Ray Shahan, resident, is still requesting a full investigation on PD3-10-590 regarding the zoning/rezoning of the Ranch subdivision. Shahan explained to council the types of fencing allowed throughout the ranch subdivision and expanded on the information he distributed to Council.

5. PRESENTATIONS

A. Presentation of Proclamation for National Payroll Week.

Accounts Payable Payroll Specialist II Pat Skinner, and Assistant Finance Director Steven Ventura accepted the proclamation for national payroll week.

6. CONSENT AGENDA

All consent agenda items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the Consent Agenda and voted on separately.

- A. Consider and/or act upon the August 18, 2015 regular meeting minutes.
- B. Consider and/or act upon the approval of an Ordinance amending Section 9.100 of the Fee Schedule; water and sewer rates for the North Texas Municipal Water District pass through increase.

COUNCIL ACTION (6.A.and 6.B.):

APPROVED

Mayor Pro Tem Bradley moved to approve the Consent Agenda as presented. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

7. INDIVIDUAL CONSIDERATION

- A. Consider and/or act on the application of property owner McBirney 544 Joint Venture requesting approval of a site plan, landscape plan, building elevations and construction plat for a Denny's restaurant and retail space on property located on the southeast corner of Brand Road and FM 544 at the Murphy Village Addition.

Director of Economic & Community Development, Kristen Roberts presented a concept for Denny's restaurant with a small retail division of approximately 2,200 square feet. There was discussion on council regarding the landscape plan and light poles. It was confirmed by Roberts that the light poles would go along with the current development standards. Council also confirmed the retail portion of this building will only be one tenant, not to be subdivided.

COUNCIL ACTION (7.A.):

APPROVED

Mayor Pro Tem Bradley moved to approve the application of property owner McBirney 544 Joint Venture requesting approval of a site plan, landscape plan, building elevations and construction plat for a Denny's restaurant and retail space on property located on the southeast corner of Brand Road and FM 544 at the Murphy Village Addition. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

- B. Hold a public hearing to discuss the application of Domain Horizon Limited requesting a variance specifically to exterior construction standards and landscaping standards and consider and/or act on the application of Domain Horizon Limited requesting approval of a site plan, landscape plan, and building elevations for a Best Gymnasium at the NWC of FM 544 and McCreary Road.

Director of Economic & Community Development Kristen Roberts explained Best Gyms meets all requirements and it will be located at the McCreary and 544 intersection behind the existing 7/11. Roberts explained there are a few variances being requested. 1. The landscape, the

landscape buffer is normally 15 feet and they are requesting a 5 foot buffer. Staff is recommending strongly they allow this. Council discussed landscaping density in regards to safety around the railroad tracks nearby. The second variance request is the Landscape coverage. Currently the requirement based on code is 16.45% they are proposing 15.52% due to parking changes because of the potential for cut through traffic. The third variance requested is in regards to the masonry on the exterior of the building 80% they are requesting for the south elevation to have 52% and the east elevation of 59% masonry. The council discussed who owns the property behind Elevate Church and concerns regarding traffic. Roberts explained different things to be done to help control traffic for the Best Gym and 7/11. Roberts explained Planning and Zoning approved the three variance requests unanimously.

The applicant, Legacy Architecture addressed Council's questions regarding landscape, explained they are willing to work with P&Z, Staff and Council on their wishes for the landscape such as a hedge, ornamental trees, and dense shrubbery. Council asked for clarification on the siding. The applicant explained it is an insulated metal panel with stucco finish. Signage requirements were mentioned but the applicant explained they were not to that stage in submitting yet.

COUNCIL ACTION (7.B.):

APPROVED

Mayor Pro Tem Bradley moved to approve the application of Domain Horizon Limited requesting a variance specifically to exterior construction standards and landscaping standards and consider and/or act on the application of Domain Horizon Limited requesting approval of a site plan, landscape plan, and building elevations for a Best Gymnasium at the NWC of FM 544 and McCreary Road and to include barrier landscaping between the building and the railroad tracks along the north border. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

- C. Hold a public hearing and consider and/or act on an ordinance amending the zoning classification on approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential – Patio Home and Townhome with a concept plan.

The public hearing was held but the item is to be moved to Tuesday, September 15, 2015 for action by the Council at the request of the applicant.

Public Hearing opened at 6:38PM

Don Jackson, resident, asked Council to respect the resident's minimum lot size of 9000 square feet. That has been changed to 5000 square feet. Jackson wanted to be clear on his wishes to have the minimum lot sizes, setbacks, garage locations, and parking requirements to all be kept.

Larry Truesdale, resident, clarified he is a board member of the Ranch HOA but his comments do not reflect the views and opinions of the Ranch HOA, he is commenting as a resident only. Truesdale wanted to let Council know he is supportive of this and has been working with the developer of concerns he has and other neighbors have.

Cindy Persinger, resident, explained her concerns regarding the fencing. She suggested using a solid brick fence would be the best for continuity in the area. She also expressed her wishes to keep them as patio homes as to not encourage rentals.

Public Hearing closed at 6:50PM

Public Hearing reopened at 6:50PM

Charles Hall, resident, addressed the Council regarding the potential for the homes to be too small in square footage according and wishes to make the homes larger for better appearance.

Public Hearing closed at 6:52PM

Council wanted clarification as to the reason for the delay. The developer clarified the reason as having to do with the land owner and sale of the property which is not completed.

COUNCIL ACTION (7.C.):

NO ACTION

- D. Hold a public hearing on the proposed 2015 Tax Rate of \$0.5300 per \$100 valuation.

City Manager James Fisher explained this is the second public hearing on the proposed tax rate. Fisher gave a brief description of the tax rate history, property values, and a breakdown on what the tax revenue will be used for.

This tax rate will raise more taxes for maintenance and operations than last year's tax rate.

The tax rate will effectively be raised by 6.50 percent and will raise taxes for maintenance and operations on a \$100,000 home by approximately \$-3.05.

Public Hearing open at: 6:58PM

Public Hearing closed at: 6:58PM

The vote on the proposed tax rate will take place on Tuesday, September 15, 2015 at 6:00 PM in the City Council Chambers at Murphy City Hall, 206 North Murphy Road, Murphy, Texas.

- E. Hold a public hearing on the proposed FY 2015-2016 Budget.

City Manager James Fisher gave a background on how the FY16 budget was directed by the guiding principles and how the different revenues will be used to fund the city. Fisher explained the General and Utility fund expenditures, and the monies being transferred from the reserve funds. Fisher broke down the items being funded by the MCDC and MMDD which include items like mowing and events.

Public Hearing open at: 7:06PM

Charles Hall, resident, expressed his concern for the water rates. He explained that his water bill is costing as much as other bills and is requesting council to look into the current water contract.

Council explained the city has been absorbing the rate increases but cannot afford to do so anymore.

Public hearing closed at 7:21PM

The vote on the proposed fiscal year 2015-2016 budget will take place on Tuesday, September 15, 2015 at 6:00 PM in the City Council Chambers at Murphy City Hall, 206 North Murphy Road, Murphy, Texas.

This budget will raise more total property taxes than last year's budget by \$539,926, or 5.46%, and of that amount \$200,093 is tax revenue to be raised from new property added to the roll this year.

F. Consider, discuss and/or act on an update to the Southeast Study Project.

Director of Economic & Community Development Kristen Roberts, explained no action would take place for residents in the affected area right away but if there is a good deal of development in the future there would be a plan for this area. Roberts explained how staff has been communicating with the stakeholders, through meetings, flyers etc. on getting their feedback and wishes for this area.

Freese and Nichols explained to Council and members of the community the three different potential plans for this area. Concept Plan A includes commercial/retail along FM 544 and McCreary, low density/flex residential, and some medium density residential. Council asked for clarification regarding what low and medium density residential means. Freese and Nichols explained it would be a potential mixture of patio homes and townhomes, and low density residential would be larger acre lot homes. Connectivity was discussed on Ridgeview, Moonlight and McCreary.

Concept Plan B includes low density/flex residential, commercial/retail, and walkable type center, a Roundabout to connect to McCreary to S. Maxwell Creek, and preserving Maxwell Creek. Concept Plan C was created as if it was a blank slate_connecting S. Maxwell Creek to McCreary without a roundabout but a winding type road. Council expressed their concerns on connecting Ridge View to Maxwell Creek, which would have the potential to make Ridge View a highly traveled road.

Council discussed connectivity, residential density, the potential for streets to become cut through, and differences between the different concept plans. City Manager James Fisher also explained that Cherokee Drive is not a public street but it is a privately owned street.

Roberts explained they would take all the comments, notes and concerns and try to come up with one concept plan to come before council later in September.

Public Comments:

Christine Johnson, resident, expressed her concern on the deadline. She would like council to consider extending it. She also expressed her desire for a few more stakeholder meetings, and the consideration of council to think about the cost of updating the infrastructure.

Rose Perry on behalf of residents, Nemesio and Luz Rodriguez, requested clarification on what flex residential means. Council clarified there will not be commercial/retail in the low density/flex residential areas.

Julianne Delozier, resident, would like the consideration of being included in the southern part of the plan in the low density residential area. She also expressed her desire to not extend the moratorium due to needing to house her horses.

Daniel Lucas, resident, wanted to make clear that Cherokee is a private road which is repaired/maintained by the owners. He explained their wishes to keep their area of Murphy as it is as they have just finished building their home.

Ryan Betz, resident, expressed his desire to be involved in the plans and likes the general direction of the plans.

Mike Prez, resident, expressed his concerns on cut troughs and suggested connecting S. Maxwell Creek. And would like the council to consider the traffic not only in Murphy but surrounding areas on the impact this would have.

Mark Hanson, resident, expressed not wanting Ridge View or Kinney as a cut through. He also would like council to consider extending this study until the residents who will be impacted by not only the study but the traffic as well.

Tucker Jeff, resident, would like clarification on the homeowner's options. He would like council to consider extra time to make the best decisions for the area, traffic and otherwise.

Don Kiertscher, resident, would like to remind council and staff to look at the big picture of Murphy and the surrounding areas and how this study will affect the city as a whole, and cautioned against traffic calming measures because it does the opposite in his opinion.

Keith Huyck, resident, would like to see the northern properties along the west of Maxwell Creek left as they currently stand, and develop along FM 544 and McCreary.

Ray Cross, resident, expressed his wishes to not change the zoning and leave as SF20 with an exception east of Maxwell Creek.

Pete Ganis, resident, has been approached by developers already, and would like to know how the road will connect and how the traffic will affect things such as public safety vehicles.

Diane Waller, resident, would like to provide more input before a concrete plan is made and to take another look at the north area to not put too many houses there.

Council clarified the intention of this project is to have a plan if/when there is future interest in developing it.

COUNCIL ACTION (7.F.):

NO ACTION

- G. Discussion regarding the appointment process for service to the Animal Shelter Advisory Committee, Board of Adjustment, Building and Fire Code Appeals Board, Community Development Board, Ethics Review Commission, Murphy Municipal Development District Board, Park and Recreation Board, Planning and Zoning Commission, and Community Improvement Capital Advisory Committee.

City Manager, James Fisher asked for direction of council on the process of appointing the Community Improvement Capital Advisory Committee. Council confirmed the current timeline and current process of appointing will continue.

8. CITY MANAGER/STAFF REPORTS

- A. Timbers Nature Preserve

City Manager Fisher gave update on construction being complete. To date it is approximately 85% complete. We are hoping to get it finished by the end of September, early October.

- B. Betsy Lane Road Widening Project

City Manager Fisher said this project is ahead of schedule.

- C. South Maxwell Creek Parallel Trunk Sewer Line

This project is on time and moving forward.

- D. North Murphy Road

City Manager Fisher explained they are hoping to have all of the Safe Routes To School items complete by October.

- E. "Drug Take Back" day in Murphy

City Manager Fisher updated council regarding the event, which is to be held Saturday, September 19th.

9. EXECUTIVE SESSION

The City Council convened into closed Executive Session at 8:52 pm, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code in accordance with the authority contained in:

- A. § 551.074 Deliberation regarding the City Manager's appointment of the Police Chief.

10. RECONVENE INTO REGULAR SESSION

The City Council reconvened into open session at 9:17 pm with the Mayors announcement that no action was taken in Executive Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

- A. § 551.074 Deliberation regarding the City Manager's appointment of the Police Chief.
- B. Take Action on any Executive Session Items.

COUNCIL ACTION (10.A.)

NO ACTION

11. ADJOURNMENT

With no further business, the meeting was adjourned at 9:18 pm.

APPROVED BY:

ATTEST:

Eric Barna, Mayor

Susie Quinn, City Secretary

Issue

Consider and/or act upon approval of an Ordinance adopting the fiscal year 2015-2016 budget and appropriating funds to a sinking fund to pay interest and principal on the City's indebtedness, and appropriating funds to support the City of Murphy, Murphy Municipal Development District and Murphy Community Development Corporation for the fiscal year beginning on October 1, 2015 and ending on September 30, 2016.

Staff Resource/Department

James Fisher – City Manager

Linda Truitt – Finance Director

Background/History

The budget is adopted annually by the governing body of the City for revenues and expenditures of City funds. The City Charter requires the Council to adopt a budget for the next fiscal year at least ten days prior to the beginning of that fiscal year. The budget must be adopted prior to adoption of the tax rate. Several meetings were held with City Council to discuss and review the proposed budget. Two budget hearings were held on August 18th and September 1st for public input.

The Murphy Municipal Development District approved its budget on July 23, 2015 at its regularly scheduled meeting.

The Murphy Community Development Corporation approved its budget on July 16, 2015 at its regularly scheduled meeting.

The FY 2015-2016 budget must be adopted by a record vote of the City Council. The adopted budget must contain a cover page stating a record vote of each member of the governing body by name, the property tax rates for the current and preceding fiscal year, the total amount of debt obligations and the following statement in 18 point font:

This budget will raise more revenue from property taxes than last year's budget by an amount of \$539,926, which is a 5.46 percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is \$200,093.

Financial Considerations

Adoption of the annual budget constitutes the proposed revenues and expenditures as approved by the governing body for the fiscal year.

THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$539,926 OR 5.46%, AND OF THAT AMOUNT \$200,093 IS TAX

REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE TAX ROLL THIS YEAR.

The proposed FY 2015-2016 General Fund budget includes a proposed tax rate of \$0.333221, a decrease of \$0.003049 from the FY 2014-2015 tax rate. While the Debt Service Fund budget includes a proposed tax rate of \$0.196779 which is a \$0.016951 decrease from the FY 2014 - 2015 tax rate. The total proposed tax rate is \$0.5300 for FY 2015-2016, a decrease of \$0.0200 from the FY 2014-2015 tax rate of \$0.5500.

Below is a recap of the Proposed General Fund FY 2015-2016 Budget:

Proposed Fund Balance at October 1, 2015	\$ 3,046,203
Revenues and Transfers	13,312,800
Expenditures	13,769,600
Revenues Less Expenditures	\$ (456,800)
Proposed Fund Balance at September 30, 2016	\$ 2,589,403

Action Requested

Motion to approve an Ordinance adopting the budget for the fiscal year beginning October 1, 2015 and ending September 30, 2016 and making the appropriations as reflected in said budget.

Attachments

- 1) Ordinance
- 2) Exhibit "A" attachment - budget

ORDINANCE 15-09-999

AN ORDINANCE MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF MURPHY, TEXAS, MURPHY MUNICIPAL DEVELOPMENT DISTRICT AND MURPHY COMMUNITY DEVELOPMENT CORPORATION FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2015, AND ENDING SEPTEMBER 30, 2016; APPROPRIATING MONEY TO A SINKING FUND TO PAY INTEREST AND PRINCIPAL ON THE CITY'S INDEBTEDNESS; AND ADOPTING THE ANNUAL BUDGET OF THE CITY OF MURPHY, TEXAS, FOR THE 2015-2016 FISCAL YEAR.

WHEREAS, an annual budget for the fiscal year beginning October 1, 2015 and ending September 30, 2016 has been duly created by the City Manager of the City of Murphy, Texas, in accordance with sections 102.002 and 102.003 of the Local Government Code; and

WHEREAS, the budget officer for the City of Murphy filed the proposed budget, attached as *Exhibit A*, in the office of the City Secretary on or before August 5, 2015 and the proposed budget was made available for public inspection by the taxpayers in accordance with section 102.005(b) of the Local Government Code; and

WHEREAS, section 7.05 of the City of Murphy Home-Rule Charter requires the Public Hearing on the Budget be published at least once in the official newspaper of the City, and on the official City website; and

WHEREAS, the budget, attached as *Exhibit A*, for the fiscal year beginning October 1, 2015, and ending September 30, 2016, was duly presented to the City Council by the City Manager and two Public Hearings were ordered by the City Council and a Public Notice of said hearings was caused to be given by the City Council and said notice was published in the Murphy Monitor and said Public Hearings were held according to said notice; and

WHEREAS, a public hearing was held by the Murphy City Council on August 18, 2015 and September 1, 2015 in accordance with section 102.006 of the Local Government Code and section 7.05 of the City of Murphy Home-Rule Charter at which time all citizens and parties of interest were given the opportunity to be heard regarding the proposed 2015-2016 fiscal year budget.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, THAT:

Section 1: That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2: That the appropriations for the fiscal year beginning October 1, 2015, and ending September 30, 2016, for the, support of the General Debt Services of the City of Murphy,

Texas, expenditures shown in the City's fiscal year 2015-2016 budget, a copy of which is attached hereto as **Exhibit A**.

Section 3: That the budget, as shown in words and figures in **Exhibit A**, and the City's pay plan are hereby approved in all respects and the budget is adopted at the departmental level as the City's budget for the fiscal year beginning October 1, 2015, and ending September 30, 2016.

Section 4: That there is appropriated the amount shown in said budget necessary to provide for a sinking fund for the payment of the principal and interest and the retirement of the bonded debt.

Section 5: That this Ordinance shall take effect and be enforced from and after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this 15th day of September, 2015.

Eric Barna, Mayor
City of Murphy

ATTEST:

Susie Quinn, City Secretary
City of Murphy

APPROVED AS TO FORM AND LEGALITY:

Wm. Andrew Messer, City Attorney

EXHIBIT A

Fiscal Year 2016 Budget



City of Murphy

Fiscal Year 2015-2016

Budget Cover Page

This budget will raise more revenue from property taxes than last year's budget by an amount of \$539,926, which is a 5.46 percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is \$200,093.

The members of the governing body voted on the budget as follows:
FOR:

AGAINST:

PRESENT and not voting:

ABSENT:

Property Tax Rate Comparison

	2015-2016	2014-2015
Property Tax Rate:	\$0.530000/100	\$0.550000/100
Effective Tax Rate:	\$0.511745/100	\$0.531741/100
Effective Maintenance & Operations Tax Rate:	\$0.312876/100	\$0.318578/100
Rollback Tax Rate:	\$0.534685/100	\$0.557794/100
Debt Rate:	\$0.196779/100	\$0.213730/100

Total debt obligation for City of Murphy secured by property taxes: \$0



This budget will raise more revenue from property taxes than last year's budget by an amount of \$539,926, which is a 5.46 percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is \$200,093.



Eric Barna
Mayor

Scott Bradley
Mayor Pro-Tem

Owais Siddiqui
Deputy Mayor
Pro-Tem

Sarah Fincanon

Betty Nichols Spraggins

Ben St. Clair

Rob Thomas

James Fisher

Susie Quinn
City Secretary

Ed Drain
Interim Chief of Police

Bernie Parker
Director of Public
Services

Kristen Roberts
Dir. of Community &
Economic Development

Linda Truitt
Finance Director

Mark Lee
Fire Chief

Jana Traxler
Human Resources
Manager

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Murphy's Vision Statement

Murphy Values a safe, vibrant, family – orientated distinctive city that fosters a strong sense of community.

Murphy's Guiding Principles

- We will seek innovative solutions for local issues;
- We will have engaging community activities and programs for all ages;
- We will have attractive and inviting parks and trails;
- We will encourage civic and community involvement;
- We have a bold sense of economic vitality;
- We will maintain professional and highly trained staff with a servant leadership focus;
- We will respectfully enforce all laws and regulations;
- We will have well maintained infrastructure;
- We will uphold quality building standards
- We will have strong relationships with neighboring communities;
- We will be compassionate, caring, citizens, neighbors and city staff



August 4, 2015
Mayor Eric Barna
Murphy City Council
206 N. Murphy Road
Murphy, Texas 75094

Dear Mayor Barna and Members of the City Council,

In accordance with the City of Murphy's Charter, Section 7.02, and with the financial policies of the City, I am pleased to submit the FY16 Annual Budget for the period of October 1, 2015 through September 30, 2016.

The City Council had a Planning Session in the spring of 2015 to review the current Strategic Plan that expires this year and to review the Vision and Mission Statement (Guiding Principles). The Council also discussed the financial condition of the City, the expectations of the community, and the challenges facing the city and the general direction of the City is heading. The City Council clarified the Vision Statement and Guiding Principles and adopted them as a foundation to build future decisions upon.

The Leadership Team began developing the FY16 Annual Budget in May and used the Guiding Principles with institutional knowledge to prepare their departmental budgets. The City Council and Leadership Team met throughout the summer to discuss the proposed budgets and how the departmental budgets were meeting the needs of the Community.

FINANCIAL SUMMARY

Total budget for FY16 is \$32,664,600 and is a decrease of 6.60% from the FY15 adopted budget. The following table illustrates the adopted budgets for FY15 and the proposed FY16 as well as the percent change from one fiscal year to the next.

	FY15 Adopted	FY16 Proposed	Percent Change
General Fund	\$ 13,308,500	\$ 13,523,400	1.61%
Court Technology Fund	6,200	5,200	-16.13%
Building Security Fund	16,700	16,700	0.00%
Judicial Efficiency Fund	1,000	1,000	0.00%
JUV Case Manager Fund	30,000	30,000	0.00%
Community Events Fund	200,500	309,600	54.41%
Cable TV PEG Fund	-	5,200	
Utility Fund	8,078,200	8,403,000	4.02%
Capital Project Fund	-	-	
Community Development Fund	938,600	1,247,000	32.86%
Municipal Development Fund	493,400	590,500	19.68%
Debt Service Fund	3,846,700	3,877,400	0.80%
Capital Construction Fund	3,648,300	2,690,800	-26.25%
Utility Capital Construction Fund	3,830,000	1,591,000	-58.46%
Impact Fund	462,800	373,800	-19.23%
Total budget	\$ 34,860,900	\$ 32,664,600	-6.30%

Property Values

The City of Murphy saw an increase in certified appraised values this year of approximately 8% for a certified total of \$1,916,589,023; with an addition \$58,428,710 under review. Approximately 25% of the appraised values increase is due to new construction valued at \$37,753,454. The increase in property values has been a trend for several years with the largest increase of approximately 9.5% in FY 15 and the smallest of approximately 0.40% in FY12. As the City reaches build out in the next couple of years, this trend of increase will slow down as indicated with approximately an 8% increase for this budget year which is 1.5% less than last year. The City will not be able to continue to rely on increased property values as an additional source of revenue.

Valuations

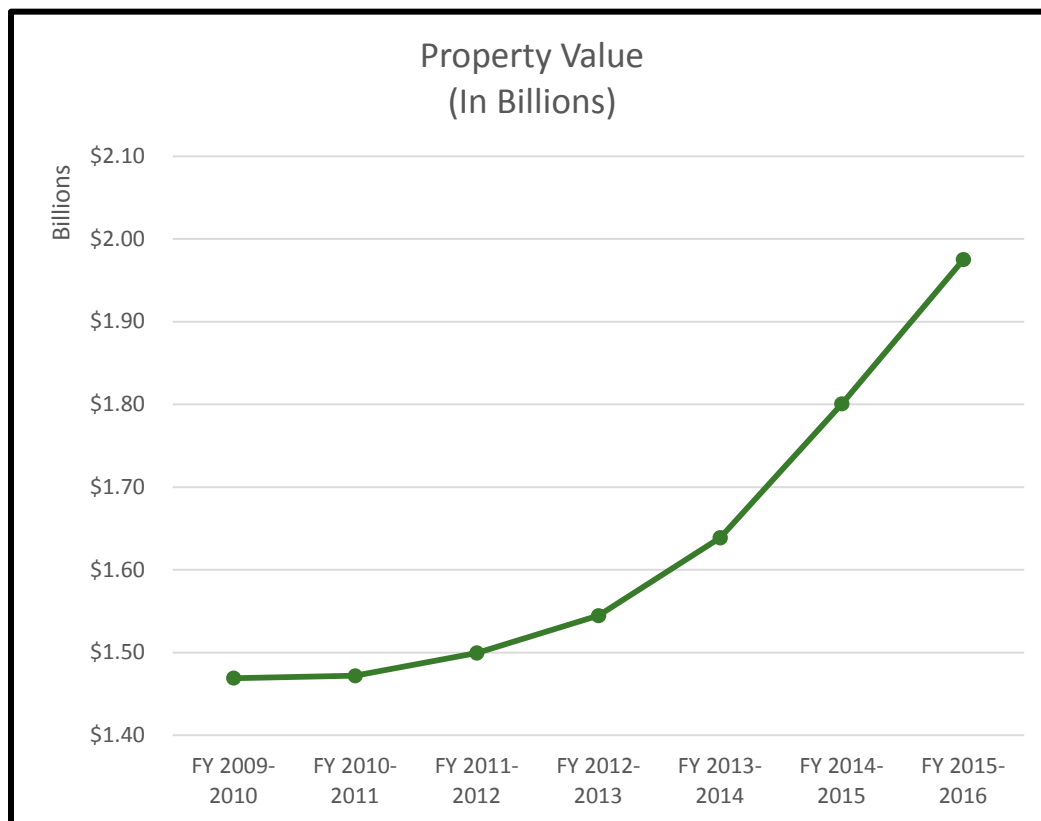
	Certified	Review	Total	Changes	% of Change
2009-2010	1,433,169,326	35,975,582	1,469,144,908		
2010-2011	1,468,140,104	3,786,377	1,471,926,481	34,970,778	2.38%
2011-2012	1,474,146,277	25,468,692	1,499,614,969	6,006,173	0.41%
2012-2013	1,526,307,177	18,353,253	1,544,660,430	52,160,900	3.48%
2013-2014	1,614,305,560	24,392,305	1,638,697,865	87,998,383	5.70%
2014-2015	1,774,655,435	25,968,662	1,800,624,097	160,349,875	9.79%
2015-2016	1,916,589,023	58,428,710	1,975,017,733	141,933,588	7.88%

The City's property taxes are divided into two components: Operations and Maintenance (O&M) and Debt Service. The O&M portion funds the daily operations of City government, such as administration, fire, police, parks, streets, code compliance, community development and sanitation. Debt Service is the portion that funds the debt the City has incurred to provide essential infrastructure and quality of life amenities for our community. The City has maintained an average tax rate of \$0.55000 for the past six years while the average O&M tax rate has averaged at \$0.3300 with the balance of the tax rate funding the debt of the City. Despite the voter approval of the \$16 million dollar bond package in 2008, the tax rate for the outstanding debt only increased in FY 11 and FY 12 and has declined in every year since. Another factor that helped decrease the debt service tax rate was the refinancing of older bonds, saving the City \$1,822,090 over the life of the bonds. The proposed tax rate for FY 16 is \$0.5300 per \$100 valuation a two cent decrease from FY 15. The proposed O&M rate is \$0.333221 a (decrease of \$0.003049) and the proposed debt service rate is \$0.196779 (a decrease of \$0.016951).

This is the second consecutive year that the City has decreased the property tax rate. Even though the appraised values have increased over the past several years, other revenue sources within the General Fund have fallen short of expectations. The City needs to increase General Fund revenue or reduce expenses and services it provides. We cannot continue this trend.

Tax Rate

	O&M	Debt	Total	O&M Change	O&M % of Change
2009-2010	0.334089	0.204316	0.538405		
2010-2011	0.317442	0.247558	0.565000	-0.016647	-4.98%
2011-2012	0.309993	0.255007	0.565000	-0.007449	-2.35%
2012-2013	0.329495	0.240505	0.570000	0.019502	6.29%
2013-2014	0.341521	0.228479	0.570000	0.012026	3.65%
2014-2015	0.336270	0.213730	0.550000	-0.005251	-1.54%
2015-2016	0.333221	0.196779	0.530000	-0.003049	-0.91%

**GENERAL FUND BUDGET****REVENUES**

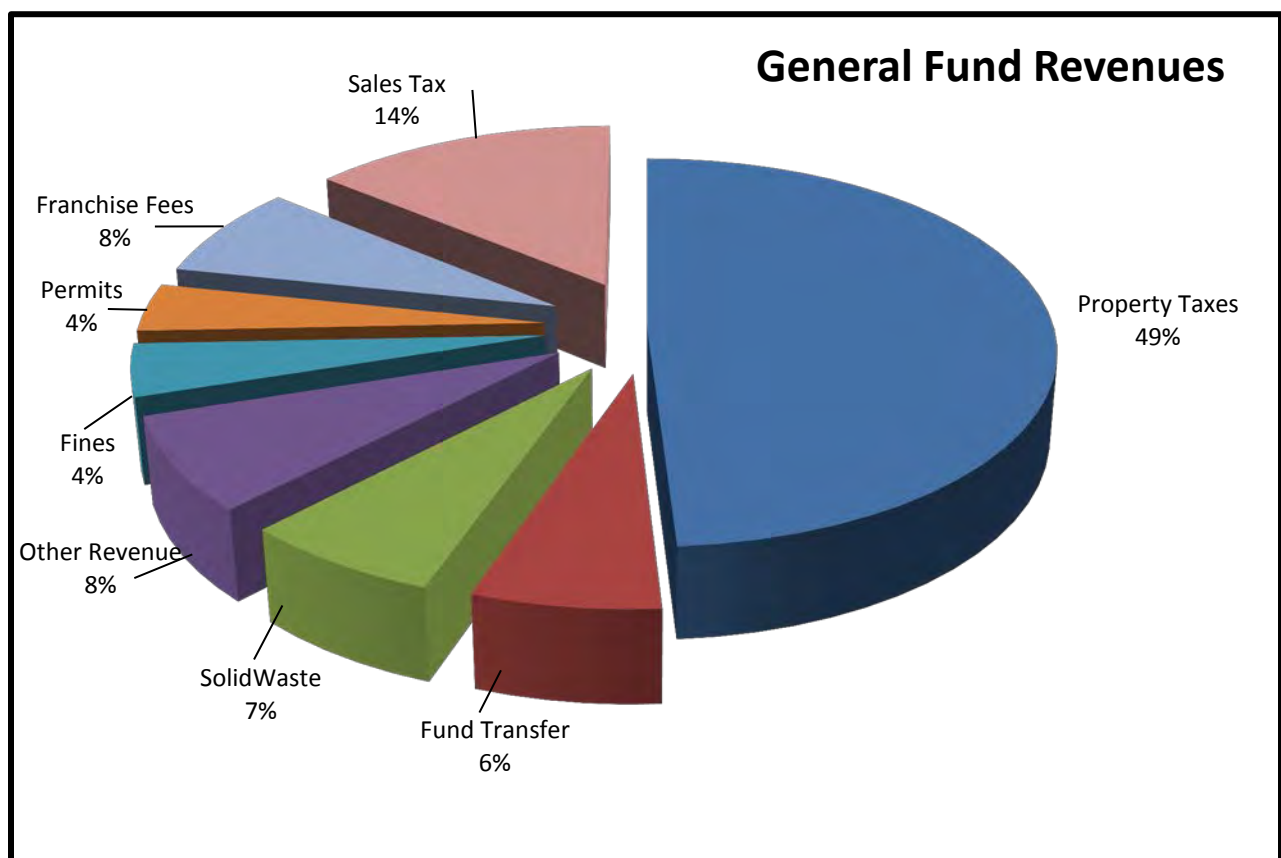
The City of Murphy receives approximately 49% of the budgeted revenues from property taxes. The City's property taxes are divided into two components: Operations and Maintenance (O&M) and Debt Service. The O&M portion funds the daily operations of City government, such as administration, fire, parks, police, streets and sanitation. Debt service is the portion that pays for debt the City has incurred to provide essential services to our community. The proposed tax rate for FY16 is \$0.5300 per \$100 valuation.

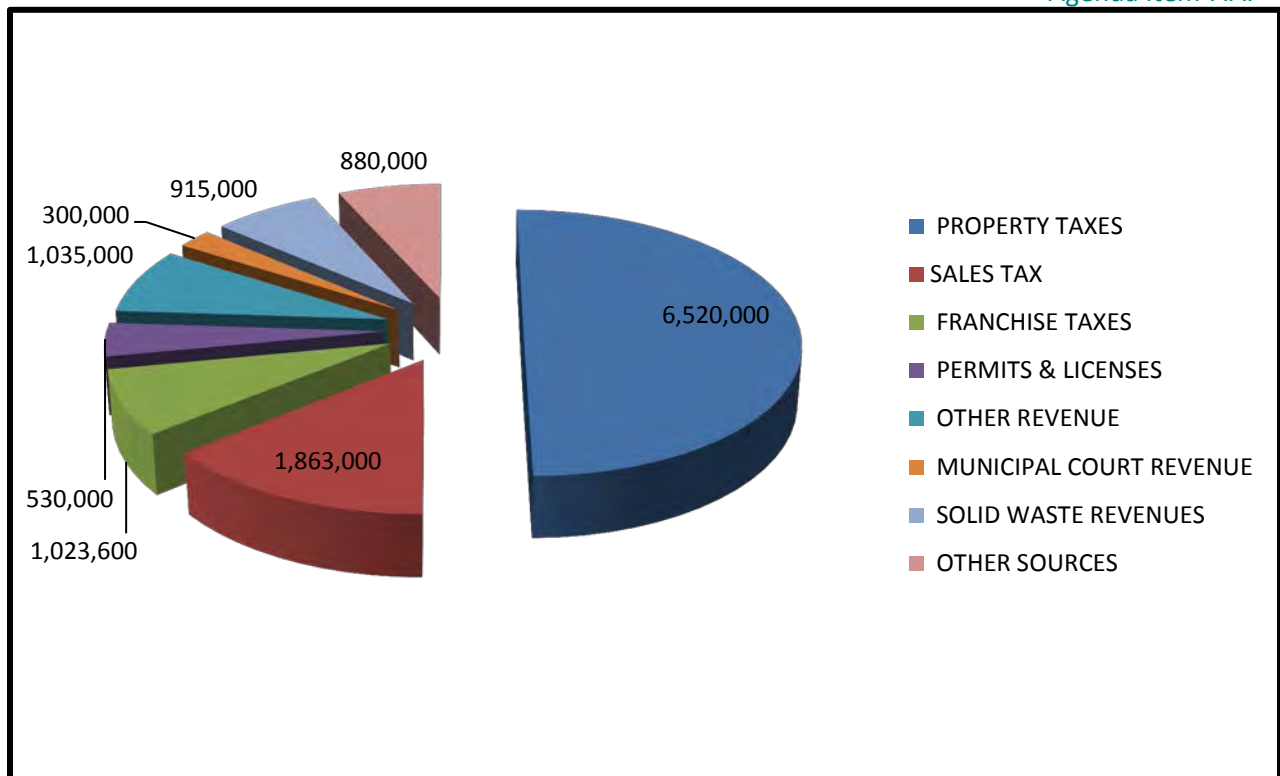
Agenda Item 7.A.

The O&M rate is \$0.333221 a (decrease of \$0.003049) and the debt service rate is \$0.196779 (a decrease of \$0.016951). The average market value of a single family home is currently at \$313,911 and will pay approximately \$1,663.73 in city property tax.

Sales Tax revenue is budgeted at a 5.0% increase as the economy continues to improve and will generate approximately 14% of the General Fund revenue. Other Revenue generates approximately 8% of General Fund revenue, matched by Franchise Fees at 8%, followed by Solid Waste at 7%, Permits & Licenses at 5% and Municipal Court Revenue at 4%.

The General Fund also receives an \$850,000 transfer from the City's Utility Fund and a \$30,000 transfer from the City's Juvenile Case Manager Fund (funded from court costs). The transfer from the Utility Fund is used to offset Administrative expenses incurred in the General Fund for the benefit of the Utility Fund and will allow the City to purchase the needed capital without increasing taxes. The transfer from the City's Juvenile Case Manager Fund will pay a portion of the Municipal Court Juvenile Case Manager's salary and benefits. These transfers are approximately 6% of the General Fund revenue.



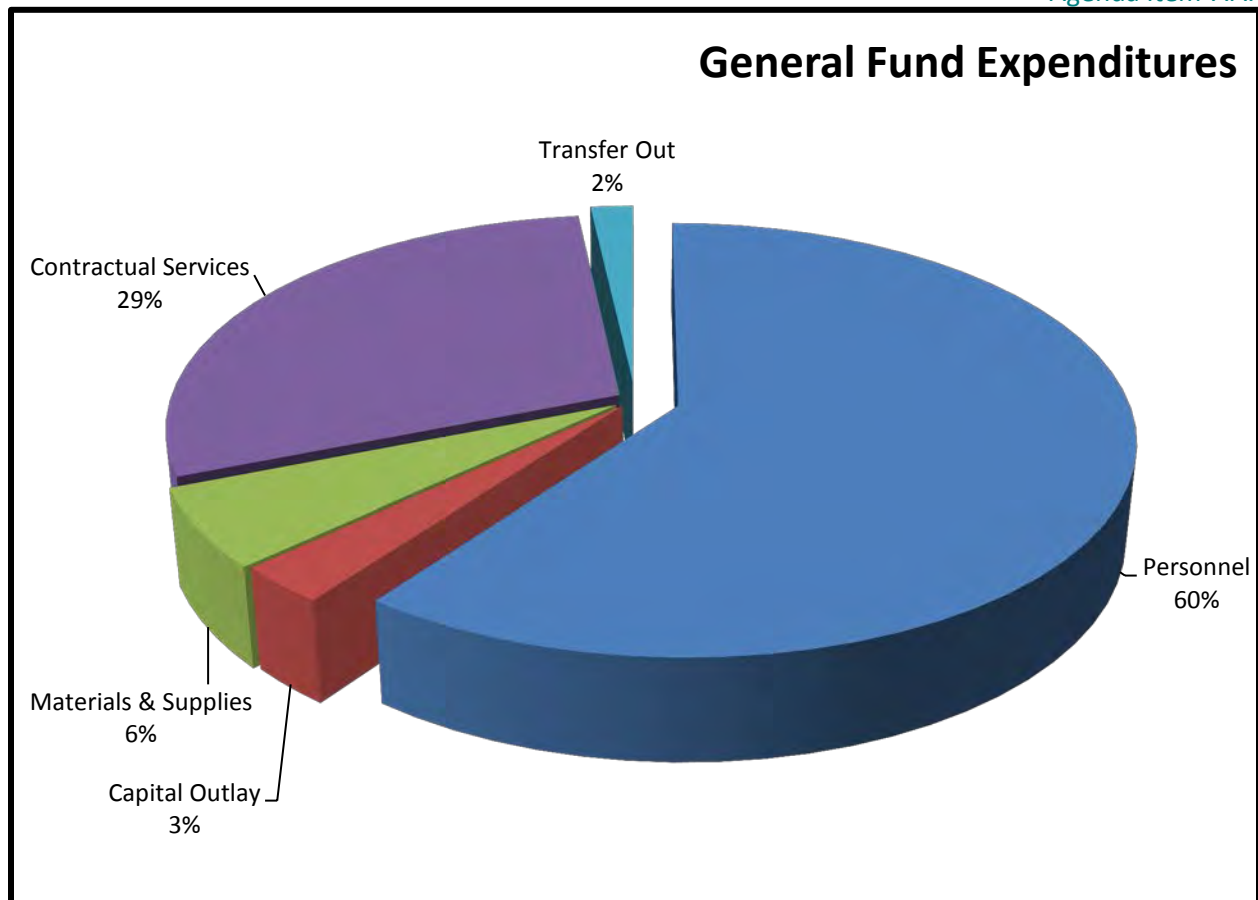


As you can see, the City is heavily dependent on property taxes for General Fund revenue. The City must continue to diversify revenue sources by growing the commercial businesses which generate sales tax. However, we must be careful in the area of economic development. The City should encourage businesses that are unique and complement our community. They should not only increase sales taxes but also increase property values for them and surrounding neighbors.

EXPENDITURES

The greatest asset of the City of Murphy is our employees. The City Council has recognized this asset in the adoption of the Guiding Principles that supports the City's Vision Statement. The City of Murphy will maintain professional and highly trained staff with a servant leadership focus. The City Council authorized a Compensation Study and Pay Plan for all employees in summer 2015. The results of this study and plan will be presented to the Council later this month and a more detailed review with implementation discussion will occur in October 2015. Personnel costs represent approximately 60% of the approved expenditures. This is a significant cost in the General Fund and one that must be examined closely every year.

Contractual services are the second greatest expenditures at approximately 29%. This is due to outsourcing of park mowing, right-of-way maintenance and service contracts for City facilities. Supplies account for 6% matched with capital purchases for 3% of the expenditures and transfer out at 2%.

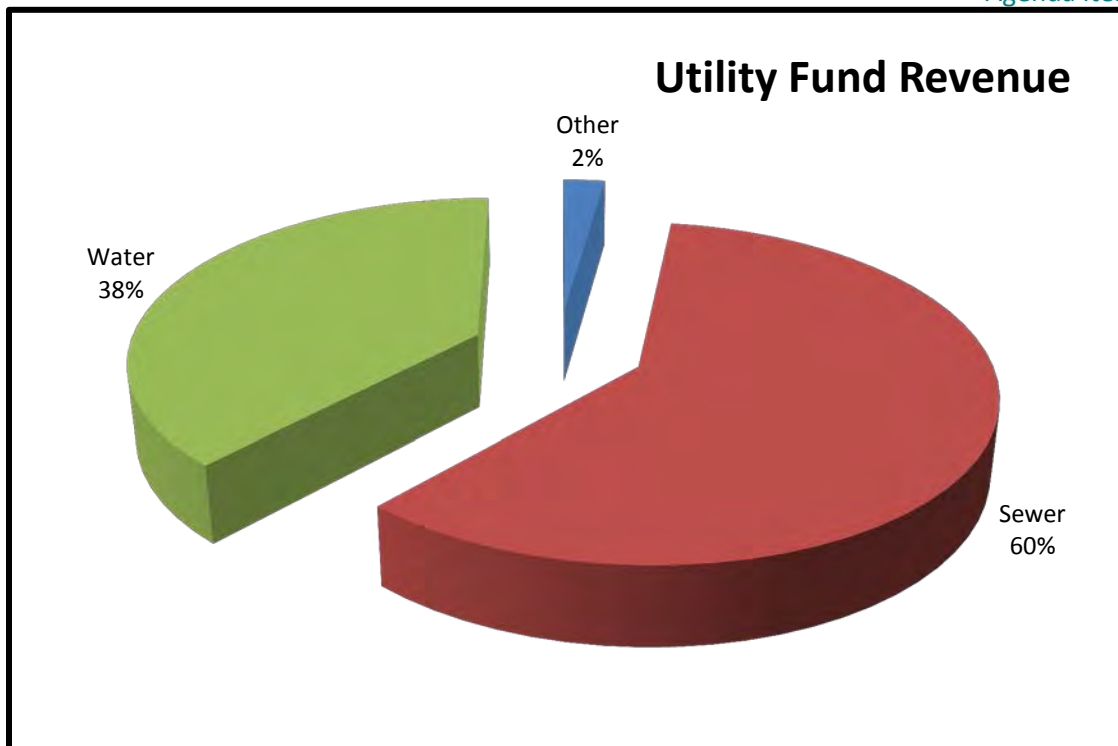


UTILITY FUND BUDGET

The Utility Fund accounts for the water and waste water services provided to the residents of the City of Murphy. All activities necessary to provide such services are accounted for in this fund, including construction, financing and related services. No taxes are used to support these services.

The following departments are funded through the Utility Fund:

- Water Distribution
- Wastewater Collection
- Customer Service (utility billing/receiving)



The main focuses for the Utility Fund are to maintain current levels of service, provide services for the continued residential growth, improve commercial development within the City and to provide maintenance and capital dollars for the general health of the system.

Total expenditures for the FY16 budget are \$8,403,000 which includes \$3,238,714 for the purchase of water and \$917,500 for the treatment of wastewater from North Texas Municipal Water District. The City of Murphy will purchase 1,384,066,000 gallons of water at \$2.34 per thousand gallons of water for a total cost of \$3,238,714 for FY 2016 from North Texas Municipal Water District regardless of how many gallons of water the city sells/uses. The City also shares the cost of the Muddy Creek Waste Water Treatment Plant and the Muddy Creek Interceptor (sewer collection line) with the City of Wylie at cost of approximately \$1.7 million.

The City's Utility fund is our enterprise fund and should generate enough revenue to ensure the investment in infrastructure is adequate for current and future use. The fund should also provide for the expenses of personnel, customer services, development and maintenance.

COMMUNITY IMPROVEMENT BUDGET

The citizens of Murphy approved a \$16 million bond program in November 2008. During the past five years, the City built new parks, revitalized existing parks, remodeled and opened a Community Center, beautified medians and streetscapes, purchased land for parks and repaired various streets throughout the City.

The bond program has cost the taxpayers approximately \$.05 cents per \$100 valuation to cover the cost of the issued debt. As these projects continue to come online, the City will need additional revenue sources to fund the operations, including personnel, and maintenance of these projects.

MUNICIPAL DEVELOPMENT DISTRICT FUND BUDGET

The Murphy Municipal Development District (MMDD) was formed in April 2012 to allow the City of Murphy to adopt a sales tax to fund the district. The Corporation receives funds from a half-cent sales tax generated within the city limits. The MMDD can undertake a variety of projects with high flexibility using the sales tax proceeds, similar to a Community Development Corporation. The revenues are used to promote economic growth, carry out programs related to community development, and promotion of new and expanded business enterprises. Total revenues for FY16 are projected at \$934,300, with a projected fund balance of \$2,093,740.

COMMUNITY DEVELOPMENT CORPORATION FUND BUDGET

The Murphy Community Development Corporation (MCDC) is a Community Development Sales Tax Corporation whose purpose is to promote projects to enhance the community's image through beautification, parks and open space ventures. The MCDC was created in June 2003 by the Murphy City Council and residents who recognize the need to set aside the money for these important public services. Total revenues for FY16 are projected at \$931,800 with a projected fund balance of \$135,510.

DEBT SERVICE FUND BUDGET

The total general obligation outstanding debt including principal and interest is \$35,975,420.05 payable over the next 16 years. The debt portion of the debt payable in FY 16 is \$2,795,000 of principal and \$1,079,600 of interest for a total of \$3,874,600. The tax rate necessary to generate the appropriated amount of taxes to pay the debt service requirement is \$0.196779 per \$100 valuation. During FY 2009, FY 2011 and FY 2012, the City refunded/refinanced outstanding bonds with higher interest rates with a lower interest rate bond and saved the City \$1,822,090 of interest over a 15 year period. City staff and the City's Financial Advisor continue to monitor the bond market and interest rates to ensure that the City is taking advantage of any interest savings.

IMPACT FUND BUDGET

An "Impact Fee" is a charge or assessment imposed by a political subdivision for new development within its service area in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new

development. The City of Murphy water and wastewater service area is all land within the City limits. The first step in determining an impact fee is to prepare land use and growth assumptions for the service area for the next ten years. Next, a Capital Improvement Plan must be created to describe the water and wastewater infrastructure that will be necessary to serve the anticipated land uses and growth. The following items can be included in the impact fee calculation:

- The portion of the cost of the new infrastructure that is to be paid by the City, including engineering, property acquisition and construction costs;
- Existing excess capacity in lines and facilities that will serve future growth and which were paid for in whole or part by the City; and
- Interest and other finance charges on bonds issued by the City to cover its portion of the cost.

The City's current Capital Improvement Plan is good through 2016 when it must be reviewed and updated to accommodate the needs of the City. Staff will begin this process in the next couple of months.

Water and Sewer impact fees are currently funding a portion of the debt incurred by North Texas Municipal Water District for the construction of the Muddy Creek Waste Water Treatment Plant and various waste water collection lines and the debt incurred by the City for the construction of the elevated water storage tank on Rodeo Drive. With the anticipated build-out of the City within the next five years, impact fees may no longer be available to fund the debt for the Muddy Creek Waste Water Treatment Plant, waste water collection lines and the elevated water storage tank. The funding of this debt will be the responsibility of the Utility Fund and will require adjustment to the water and sewer rates.

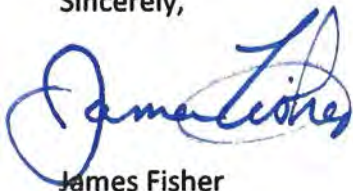
CONCLUSION

Murphy is an outstanding community that was just awarded #1 place to live by *Movoto Real Estate* and has been ranked several times in the top 10 best suburbs in the Dallas/Ft. Worth area by *D Magazine*. We are very proud of our city and will continue to strive for excellence, and to make this an excellent place to work, live and play.

This is a strong budget that will enable the staff the opportunity to provide exceptional customer and community services to our citizens. However, the budget is not without challenges. The staff will continue to monitor and manage the budget throughout the fiscal year. The staff will also make the necessary adjustments to ensure our compliance with the FY16 Annual Budget.

I would like to thank the City Council and Leadership Team for their contributions and support in the development of the FY16 Annual Budget. I especially want to thank Linda Truitt, Finance Director, and Steven Ventura, Assistant Finance Director, for their tireless hours and dedication to the preparation of the budget.

Sincerely,



James Fisher
City Manager



General Fund Budget

Fiscal Year 2016

General Fund

Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Beginning Fund Balance	\$3,556,703	\$3,365,403	\$3,365,403	\$3,046,203
Revenues				
<i>Property Taxes</i>	5,610,787	5,924,300	6,044,300	6,520,000
<i>Sales Tax</i>	1,624,731	1,767,100	1,774,000	1,863,000
<i>Franchise Tax</i>	957,372	969,900	1,022,200	1,023,600
<i>Permits & Licenses</i>	811,366	640,000	539,000	530,000
<i>Other Revenue</i>	925,281	935,600	966,400	1,035,000
<i>Court Revenue</i>	328,476	365,000	235,000	300,000
<i>Solid Waste</i>	855,981	890,000	910,000	915,000
<i>Miscellaneous Revenue</i>	150,000			
Total Revenues	\$11,293,994	\$11,491,900	\$11,490,900	\$12,186,600
<i>Transfer from Utility Fund</i>	850,000	850,000	850,000	850,000
<i>Transfer from Court Restricted Fund</i>	30,000	30,000	30,000	30,000
<i>Transfer From Reserves - Vehicles</i>				246,200
Total Other Sources	880,000	880,000	880,000	1,126,200
Total Revenues & Other Sources	\$12,173,994	\$12,371,900	\$12,370,900	\$13,312,800
Expenditures				
<i>Administration</i>	354,805	461,300	428,500	485,800
<i>Human Resources</i>	132,025	154,500	175,000	164,400
<i>Information Technology</i>	792,193	881,700	871,800	998,500
<i>City Council</i>	222,583	335,500	403,400	337,900
<i>City Secretary</i>	169,474	165,000	150,700	192,000
<i>Finance</i>	358,697	500,300	483,800	504,100
<i>Fire</i>	2,471,813	2,985,200	2,905,100	2,782,900
<i>Public Works</i>	373,550	510,300	335,500	353,900
<i>Facilities</i>	386,719	482,800	454,700	643,700
<i>Community Services</i>	523,590	615,500	610,700	637,600
<i>Economic Development</i>	111,218	150,600	160,600	187,600
<i>Police</i>	3,062,951	3,364,100	3,367,600	3,522,900
<i>Animal Control</i>	940,281	153,400	217,000	166,700
<i>Recreation</i>	300,425	349,300	329,000	353,600
<i>Parks</i>	838,350	1,054,200	944,400	1,035,900
<i>Municipal Court</i>	335,512	391,800	369,800	380,800
<i>Solid Waste</i>	721,110	753,000	752,500	775,100
Total Expenses	\$12,095,296	\$13,308,500	\$12,960,100	\$13,523,400
Reserves				
Revenue Less Expenses	\$78,698	\$(936,600)	\$(589,200)	\$(210,600)
<i>Transfer Out</i>				246,200
Ending Fund Balance	\$3,635,403	\$2,698,803	\$3,046,203	\$2,589,403

City Administration

The City of Murphy operates under a “Council-Manager form of government.” The City Council appoints the City Manager, who shall serve as the Chief Administrative Officer for the City of Murphy. The City Manager is responsible for the administration of all affairs of the City and manages the diverse departments to keep the City running smoothly. The City Manager is supported by a Leadership Team who leads the dynamic force of 100 plus employees every day to accomplish the goals, objectives and expectations of the Mayor, City Council and Citizens. The City Manager is the primary point of contact between the City’s departments and the Mayor and City Council. The main functions are to lead, guide and provide coordination to the departments as they implement City policy decisions made by the Mayor and City Council. The City Manager enforces municipal laws and ordinances and recommends improvement in operations.

This office is also responsible for presenting the Annual Budget and Community Improvement Program to City Council and provides accurate, timely information and recommendations regarding City-wide policies.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	189,874	275,300	241,600	274,900
Materials & Supplies	17,590	16,200	14,800	24,700
Contractual Services	147,341	169,800	172,100	186,200
Capital Outlay				
Total	354,805	461,300	428,500	485,800

Personnel Breakdown	FY14	FY15	FY16
City Manager	1	1	1
Executive Assistant to the City Manager	1	1	1
Total	2	2	2

Human Resources

The Human Resources Department is driven by core leadership values of trust, integrity and excellence, the Human Resources Department strives to administer quality service to our employees by providing education and support in training, recruiting, employee relations, benefits, compensation and professional development. The Human Resources Department is also responsible for risk management for the City.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	79,095	98,100	98,300	102,400
Materials & Supplies	1,115	1,000	200	800
Contractual Services	50,942	55,400	76,500	61,200
Capital Outlay	873			
Total	132,025	154,500	175,000	164,400

Personnel Breakdown	FY14	FY15	FY16
Human Resources Manager	1	1	1
Total	1	1	1

Information Technology

The Murphy Information Technology Department (ITD) develops and maintains the vital infrastructure and services which enable city employees to serve the citizens of Murphy.

The department secures, operates, enhances and supports a broad variety of products and technical systems for city departments ranging from water and wastewater, SCADA systems, economic development, social media, fiscal and payroll applications to public safety applications which require 24x7x365 support and reliability.

In addition to technical support, the ITD provides business analysis and project management resources in an effort to help city departments determine the best solutions to meet their needs. The department is responsible for data and voice communication, including local, wide-area and wireless networks, business application development, as well as hardware, software and desktop troubleshooting and support.

The Murphy ITD is also tasked with ensuring that internal business processes and technical systems comply with a variety of regulations to include, but are not limited to, the Payment Card Industry (PCI), Health Insurance Portability and Accountability Act (HIPAA), Open Records Act/Public Information Act, Americans with Disabilities Act (ADA), Federal Bureau of Investigation Criminal Justice Information System (FBI CJIS), Texas Department of Public Safety Texas Law Enforcement Telecommunications System (TxDPS), Texas Commission on Environmental Quality (TCEQ), and the Department of Homeland Security (DHS).

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	253,836	345,000	317,100	421,900
Materials & Supplies	13,257	11,700	14,100	10,200
Contractual Services	309,181	415,000	428,600	444,300
Capital Outlay	547,240	546,900	564,900	588,100
Debt Services				
Total	792,193	881,700	871,800	998,500

Personnel Breakdown	FY14	FY15	FY16
IT Manager	1	1	1
Network Analyst	1	1	1
Web Admin/Support Analyst	1	1	1
IT Business Analyst	0	1	1
GIS Analyst	0	0	1
Total	3	4	5

City Council

The City Council is elected at large and is composed of a Mayor and six Councilmembers. They are responsible for appointing and removing the City Manager, City Secretary, City Attorney, and Municipal Judge. Other responsibilities include adopting the budget and setting the tax rate, legislating policies, making board appointments, and establishing a vision for the City's development.

The City Council currently meets on the first and third Tuesday each month to transact the business of the City. Special meetings of the City Council shall be called by the City Secretary upon request of the Mayor, City Manager or three (3) Councilmembers.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	19,565	13,000	12,800	13,800
Materials & Supplies	15,251	21,500	34,300	23,600
Contractual Services	187,767	271,000	324,900	300,500
Capital Outlay		30,000	31,400	
Total	222,583	335,500	403,400	337,900

Personnel Breakdown	FY14	FY15	FY16
No Personnel	0	0	0
Total	0	0	0

City Secretary

The City Secretary's office strives to provide quality service and information to the citizens, the City Council, and City staff, as well as maintain official city records for historical preservation. This office is responsible for preparing Council agenda packets, recording Council meeting minutes, preparing and posting public notices, managing public information requests, and administering City elections.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	85,728	105,100	100,700	103,800
Materials & Supplies	1,300	1,300	2,200	1,300
Contractual Services	82,446	56,600	46,000	78,300
Capital Outlay		2,000	1,800	8,600
Total	169,474	165,000	150,700	192,000

Personnel Breakdown	FY14	FY15	FY16
City Secretary	1	1	1
Total	1	1	1

Finance

The Finance Department is responsible for critical operations, including supervision, administration and overall planning of the City of Murphy's financial activities. This includes financial reporting, billing, collections, procurement, risk management, debt management and compliance, purchasing, and cash and budget management.

Our mission is to ensure fiscal responsibility to the citizens while providing timely and accurate information, and competent quality service to the external and internal customers of the Finance Department.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	236,596	361,100	343,500	366,100
Materials & Supplies	1,715	1,700	1,700	1,700
Contractual Services	119,338	132,500	133,600	136,300
Capital Outlay	1,048	5,000	5,000	
Total	358,697	500,300	483,800	504,100

Personnel Breakdown	FY14	FY15	FY16
Finance Director	1	1	1
Assistant Finance Director	1	1	1
AP/Payroll Specialist II	1	1	1
AP/Payroll Specialist I	0	1	1
Total	3	4	4

Fire & Rescue

The Murphy Fire Department is responsible for serving the community through fire and life safety prevention, planning, preparation, response, restoration, and review. Our mission is to look for ways to provide for a high quality of life for those living, or visiting the city.

This department provides fire, emergency medical system and emergency management services. Some incidents require resources greater than available in Murphy so a reliance on neighboring communities is also planned for. This additional aid is also reciprocated to those other communities as needed.

Whether the department is reviewing development plans for future commercial occupancies or delivering life safety messages at an HOA meeting the idea is to prevent occurrences that require emergency response. Those existing programs will be continued and new programs will be sought out. Murphy Fire Rescue stands ready to serve.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	1,922,402	2,204,000	2,121,000	2,190,900
Materials & Supplies	133,472	176,800	162,800	169,800
Contractual Services	271,151	303,400	311,700	324,200
Capital Outlay	144,788	301,000	310,100	98,000
Total	2,471,813	2,985,200	2,905,100	2,782,900

Personnel Breakdown	FY14	FY15	FY16
Fire Chief	1	1	1
Assistant Fire Chief	1	1	1
Fire Marshall	1	1	1
Lieutenant	3	3	3
Administrative Assistant	1	1	1
Driver/Engineer	3	3	3
Firefighter/Paramedic	14	15	15
Total	24	25	25

Public Works

The Public works department is comprised 9 employees with four divisions, including Streets, Storm Water, Water Distribution and Wastewater.

The Street Division is responsible for the surface repair and maintenance of streets throughout the City. Additional functions include minimizing hazardous roadway conditions, performing drainage work, and responding to citizen requests for service. This division also responds to emergencies and weather related events as needed in an effort to assure safe conditions for citizens and motorists.

The Storm Water Maintenance division checks and maintains storm inlets. Debris collects in these inlets which can restrict the outflow and cause a flooding hazard during excessive rainfalls. Inlets and outlets are inspected monthly, after heavy rainfall and in response to a citizen request that may cause a potential problem.

The Water Distribution division operates, maintains and repairs the city's water distribution system. The crews are responsible for the safe delivery of high-quality potable water within the City of Murphy, by conducting daily sampling of water, flushing fire hydrants, monitoring all water facilities, visual inspections and responding to citizen requests. The system includes a pump station, 3 ground storage tanks and 2 elevated storage tanks.

The Wastewater division maintains and repairs the wastewater system to ensure efficient disposal of wastewater within the City. The crews perform routine and emergency cleaning, line stoppage removals, sewer taps, manhole repairs and clean-out installation and repairs. The system includes a lift station.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Materials & Supplies	21,169	83,400	61,000	112,500
Contractual Services	285,942	337,900	244,500	241,400
Capital Outlay	66,439	89,000	30,000	
Total	373,550	510,300	335,500	353,900

Personnel Breakdown	FY14	FY15	FY16
No Personnel	0	0	0
Total	0	0	0

Facilities

The Facilities Department is comprised of 3 employees and two divisions.

The Facilities division has one employee responsible for the maintenance and repairs for all city facilities consisting of 7 public buildings, 2 elevated storage tanks, 911 Communication building, WHF lift station, NS Pump station. Responsibilities including but not limited to, regular maintenance, repairs, state inspections, contract maintenance/repairs, staff work orders, set up and take down for meetings, elections etc. and supervision of the custodial crew.

The Custodian division has two employees that are responsible for cleaning 6 city facilities including City Hall, Fire Rescue, Activity Center, Community Center, Police/Courts and Public Works buildings.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	90,876	112,700	127,900	195,400
Materials & Supplies	50,744	57,300	56,600	66,600
Contractual Services	245,099	312,800	270,200	357,000
Capital Outlay				24,700
Total	386,719	482,800	454,700	643,700

Personnel Breakdown	FY14	FY15	FY16
Facilities Superintendent	1	1	1
Custodian	2	2	2
Maintenance Technician	0	0	1
Total	3	3	4

Community Services

Community Services have several responsibilities in many areas. Building inspections is responsible for reviewing permit plans and performing inspections for new projects as well as, additions, and remodeling projects for residential and commercial properties. The Building Inspections Department enforces the building, electrical, plumbing, mechanical, fuel gas and energy codes, zoning ordinances, and certain State statutes relating to construction.

Code Compliance is responsible for inspecting properties within the city to enforce specific City ordinances related to public nuisances, zoning violations and substandard buildings. Our Code Compliance Officers are authorized to pursue criminal and civil remedies to abate nuisances within Murphy for the purpose of maintaining a safe, sanitary and clean city.

The Health Department is charged with protecting the health and safety of the public. The Health Inspectors ensures that all food service establishments, public and semi-public swimming pools, and daycare and retirement centers meet safe and sanitary requirements by developing and implementing health education, investigation and enforcement programs.

The Planning & Zoning Department processes all zoning and development including but not limited to specific use permits, site plans, landscape plans, and plats. This department is also responsible for processing Planning & Zoning Commission and Zoning Board of Adjustment cases. Updating and managing the City's Comprehensive Plan is another primary objective of the Planning & Zoning Department.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	223,188	279,400	253,800	273,400
Materials & Supplies	9,244	13,100	10,600	11,700
Contractual Services	271,288	323,000	346,300	352,500
Total	523,590	615,500	610,700	637,600

Personnel Breakdown	FY14	FY15	FY16
Administrative Assistant	0.6	0.6	0.6
Code Compliance Supervisor	1	1	1
Code Compliance Officer	2	2	2
Director of Community Development & Economic Development	0.6	0.6	0.6
Total	4.2	4.2	4.2

Economic Development

The Economic Development Department is responsible for assisting with business retention and attracting new businesses. Retaining local businesses and attracting new businesses that will enhance the City of Murphy is an important element to the city's economic development; as such, with the addition of the Economic Development Coordinator, the department has direct contact with businesses in the city and coordinates Buy Murphy programs.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	77,475	118,400	128,400	122,700
Materials & Supplies	780	2,100	1,600	4,100
Contractual Services	31,584	30,100	30,600	60,800
Capital Outlay	1,379			
Total	111,218	150,600	160,600	187,600

Personnel Breakdown	FY14	FY15	FY16
Director of Community Development & Economic Development	0.4	0.4	0.4
Administrative Assistant	0.4	0.4	0.4
Economic Development Coordinator	1	1	1
Total	1.8	1.8	1.8

Police

The men and women of the Murphy Police Department are committed to delivering the most progressive, responsive and professional police services possible while maintaining outstanding customer service. The department provides a safe environment for residents, businesses and visitors by engaging in high visibility patrol activities to deter crime and facilitate the safe flow of traffic. The department provides 24/7 dispatch operations and promptly answers all emergency and public safety related calls. Patrol Officers provide a prompt and professional response to all requests for police services, and Detectives contact victims and conduct follow-up investigations on all reported criminal offenses.

The Police Department's School Resource Officer and School Crossing Guard programs provide a high level of safety and security for our schools. The department sponsors programs such as Citizens on Patrol, Police Explorers, Citizen Police Academy, and Youth Citizen Police Academy to establish partnerships and engagement with the community.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	2,590,719	2,883,800	2,840,900	2,923,200
Materials & Supplies	115,288	147,300	141,900	160,400
Contractual Services	223,576	269,000	320,800	297,800
Capital Outlay	123,368	64,000	64,000	141,500
Total	3,062,951	3,364,100	3,367,600	3,522,900

Personnel Breakdown	FY14	FY15	FY16
Police Chief	1	1	1
Executive Administrative Assistant	1	1	1
Lieutenant	1	1	1
Sergeant	4	4	4
Police Officers	16	16	16
School Campus Protection Officer	1	1	1
School Resource Officer	1	1	1
Support Services Manager	1	1	1
Communications Supervisor	1	1	1
Communications Officers	8	8	8
Crossing Guards - PART TIME	9	13	11
Total	44	48	46

Animal Control

Animal Control, a division of the Police Department, responds to domestic animal, wildlife, and livestock issues that arise throughout the City. Their duties include rabies awareness, investigating animal bites, lost pets, animals at large, adoptions, housing/caring for stray animals, public awareness on West Nile Virus, along with treatment of stagnant water in the City.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	102,110	110,900	111,800	115,200
Materials & Supplies	9,216	14,700	10,400	14,700
Contractual Services	8,112	22,300	25,900	36,800
Capital Outlay	820,843	5,500	68,900	
Total	940,281	153,400	217,000	166,700

Personnel Breakdown	FY14	FY15	FY16
Animal Control Officer	2	2	2
Total	2	2	2

Recreation

The City of Murphy Recreation Department is responsible for providing quality and affordable programs for the residents of Murphy and surrounding areas. The Department's core activities include: community events, recreational, social and educational/tutorial activities and programs; fitness and promotion of healthy lifestyles. The Department is able to provide these services by conducting and overseeing recreational programs for youth as well as programs for adults. The Recreation Department provides exciting community events including Murphy Maize Days, Moonlight Movies, and Sounds at Sundown and Christmas in the Park, as well as many excellent volunteer opportunities for residents.

The Department also partners with multiple local and national recreational associations and organizations. They oversee reservations for all indoor and outdoor recreational facilities including practice fields for ten parks, nine pavilions and one amphitheater. These parks, programs, and activities are offered in hopes of improving the quality of life and physical and mental well-being of our citizens. The Recreation Department is a very important and growing part of the City of Murphy, and its objective is to expand its abilities to provide meaningful and accessible recreational opportunities for all.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	169,426	191,200	185,200	189,000
Materials & Supplies	9,359	15,800	14,300	13,300
Contractual Services	121,640	142,300	129,500	151,300
Total	300,425	349,300	329,000	353,600

Personnel Breakdown	FY14	FY15	FY16
Manager of Recreation Services	1	1	1
Recreation Specialist II	1	1	1
Recreation Specialist I	1	1	1
Recreation Specialist - PART TIME	4	4	4
Total	7	7	7

Parks

The Parks Department is comprised of 9 employees, who are responsible for the maintenance of approximately 324 acres of developed and undeveloped park land, thoroughfares/medians, applicable rights-of-ways, and other City-owned property and facilities.

Maintenance duties include mowing maintenance; tree trimming; bed planting and upkeep; irrigation scheduling, checks, repairs, and monitoring; restroom cleaning and repairs; general maintenance on park amenities.

The Parks Department is also responsible for assisting in the majority of the set-up and tear down for special events that are hosted by the Recreation Department, and many other special projects that take place in the City.

The overall goal of the Parks Department is to strive to improve the quality of life for the citizens of Murphy by providing an aesthetically pleasing park system that fosters a sense of community amongst the residents.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personal Services	521,883	638,600	607,500	666,000
Materials & Supplies	134,803	173,900	148,800	197,100
Contractual Services	170,802	241,700	191,500	172,800
Capital Outlay	10,862			
Total	838,350	1,054,200	947,400	1,035,900

Personnel Breakdown	FY14	FY15	FY16
Director of Public Services	0.5	0.5	0.5
Parks Superintendent	1	1	1
Sr. Grounds Keeper	1	1	1
Grounds Keeper II	4	4	4
Grounds Keeper I	3	3	4
Administrative Assistant	0.5	0.5	0.5
Total	10	10	11

Municipal Court

The Municipal Court is the Judicial Branch of City government. These Courts hear Class C misdemeanor cases, which are punishable by a fine only, and includes traffic, the Penal Code and ordinance violations.

The Murphy Municipal Court will provide the public with prompt and courteous service for the just resolution of all citations, complaints and court appearances involving Class C misdemeanor offenses and violations of the City's ordinances occurring within the corporate limits of Murphy.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	285,115	318,000	319,300	326,800
Materials & Supplies	3,563	4,300	2,800	3,100
Contractual Services	46,834	68,100	46,300	50,900
Capital Outlay		1,400	1,400	
Total	335,512	391,800	369,800	380,800

Personnel Breakdown	FY14	FY15	FY16
Court Administrator	1	1	1
Juvenile Case Manager	1	1	1
Deputy Court Clerk	1	1	1
Total	3	3	3

Solid Waste

The Solid Waste Department is responsible for the City's weekly solid waste and recycling services, which is provided by an outside contractor.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Contractual Services	721,110	753,000	752,500	775,100
Total	721,110	753,000	752,500	775,100

Personnel Breakdown	FY14	FY15	FY16
No Personnel	0	0	0
Total	0	0	0



Proposed Operational Capital Projects

Fiscal Year 2016

**City of Murphy – General Fund
Proposed Operational Capital Projects *
FY 2016**

Department	Description of item/project	Amount
IT	Rugged Mobile Computer Replacements (Toughbooks)	40,000
	Replace Enterprise Wireless Access Points - Phase I (End of Life 2015)	25,000
	Virtual Workspace Project (Remote Employee Access)	15,000
	Replace DNS Infrastructure (2)- (End of Life 12/2015)	15,000
	Wireless Management Utility Software- Public Safety Vehicle Fleet	8,000
	Laserfiche Avante Quickfields Server Agent	12,600
	Capital - New Employee	6,500
	Total	122,100
City Secretary	Records Management Module for Laserfiche	8,600
	Total	8,600
Fire	Lucas Device - Mechanical CPR Device to Replace AutoPulse	18,000
	Staff Vehicle - Fire Marshal	80,000
	Total	98,000
Facilities	Ford Transit Connect with equipment	24,700
	Total	24,700
Police	Staff Car (Replace Lt. Car #34, 2007 Crown Vic)	26,500
	2 Patrol Vehicles @ 57,500 ea.	115,000
	Total	141,500
Total General Fund		\$ 394,900

* \$5,000 plus life span of more than one (1) year

City of Murphy - Utility Fund
Proposed Operational Capital Projects *
FY 2016

Department	Description of item/project	Amount
Customer Service	Replacement of printers/equipment	3,500
	Proposed Vehicle Ford Transit Connect - LWB	24,700
	Mobile Building and Work Order System	1,500
	Total	29,700
Water Distribution	Rebuild Water Pump & Motor 2	25,000
	Rebuild Water Pump & Motor 6	40,000
	Replace control valve for pump 2 with electronic control valve	20,000
	Pump Starters electrical work	10,000
	SCADA (Supervisory Control and Data Acquisition) Upgrade Phase III - Alarm Dialer, NTMWD interface, generator interface, control valve interface	21,500
	Valve Machine Trailer	20,000
	Total	136,500
	Total Utility Fund	\$ 166,200

* \$5,000 plus life span of more than one (1) year

City of Murphy – General Fund Proposed Operational Capital Projects * FY 2017		
Department	Description of item/project	Amount
IT	Computer / Printer Replacement Program	30,000
	Replace Enterprise Tier1 Data Storage (City Hall)	35,000
	Replace Enterprise Firewalls	25,000
	Replace Network Switches - Phase I (City Hall, Fire, Public Works)	35,000
	Replace Enterprise Wireless AP's- Phase II	25,000
	Total	150,000
Fire	1999 F450 Squad Replacement	248,000
	Total	248,000
Public Works	Skid Steer Grapple Bucket Attachment	8,000
	Total	8,000
Police	2 Complete Taser Systems @ 1,600 each	3,000
	Mobil FLIR (Forward Looking Infra Red Vehicle Mounted)	10,000
	Total Station (Crime Scene Plotting/Drawing Device)	7,000
	Recumbent Bicycle for PD Fitness Center	5,500
	Lexipol Software	6,000
	2 Patrol Vehicles @ 57,500 ea.	115,000
	Staff Car for Victims Coordinator & CID Sgt (if approved) x2	50,000
	2 HH Radios @ 5,000 ea.	10,000
	Total	206,500
Animal Control	New AC Vehicle and Box	165,000
	Total	165,000
Parks	Blower Attachment for Ventrac	6,000
	2 - Toro ZTR Mowers - replacement for current Kubota mowers	26,000
	F-250 Truck - replacement for Truck #115 (2002 F-250)	25,000
	Total	57,000
Total General Fund		669,500

\$5,000 plus life span of more than one (1) year

*

City of Murphy – Utility Fund Proposed Operational Capital Projects * FY 2017		
Department	Description of item/project	Amount
Customer Service	\$1,500 x 6 workstations computer equipment -routine change out	9,000
	Installation of four Cisco IP CCTV (2-south CS entrance, 1- safe area, 1- public entrance hallway) cameras that will be installed in the CS area.	7,800
	The tentative plan is to install a flat panel TV above the CS counter area to allow staff to view hallway traffic in addition to any activity taking place in the counter area.	3,000
	ReCollect Digital Solutions for Waste Management	7,500
	Energov Product Suite (Incode software) Permitting & Land Management	28,300
	Total	55,600
Water Distribution	Replace Skid Steer	40,000
	Rebuild Pump and Motor 7 300HP	40,000
	Pump Starters electrical work	10,000
	Main line camera system and Van (Possible Interlocal Agreement)*	150,000
	Total	240,000
Wastewater Collection	Smoke Testing & Rehab for sewer main leaks	100,000
	Total	100,000
Total Utility Fund		\$340,000

* \$5,000 plus life span of more than one (1) year

**City of Murphy – General Fund
Proposed Operational Capital Projects *
FY 2018**

Department	Description of item/project	Amount
IT	Computer/Printer Replacement Program	30,000
	Replace Data Storage (MPD)	35,000
	Total	65,000
Fire	Replace SCBA x 15	150,000
	Replace 1 Staff Vehicle - Asst Fire Chief	85,000
	Total	235,000
Police	Universal Gym for PD Fitness Room	10,000
	Automatic License Plate Reader	20,000
	2 Complete Taser Systems	3,000
	2 Patrol Vehicles @ \$57,500 each	115,000
	Total	148,000
Parks	Replacement Batwing Mower	65,000
	Additional Ventrac Tractor	32,000
	F-250 Truck for replacement of Truck #117 (2003 F-150)	26,000
	Total	123,000
Total General Fund		\$ 571,000

* \$5,000 plus life span of more than one (1) year

City of Murphy - Utility Fund
Proposed Operational Capital Projects *
FY 2018

Department	Description of item/project	Amount
Water Distribution	Replace Truck 118 F-350 Diesel flatbed with light bar	40,000
	Bunny Run Drive Water Line Loop. From end of Bunny Run Dr. to Exist 20" W.L.** Engineer Quote - 2014 Project #5	66,000
	Replace 2100' 8" asbestos water main on Murphy Rd from FM544 to Briar Oak Dr.** Engineer Quote - 2014 Project #2	757,000
	Total	863,000
Wastewater Collection	Smoke Testing & Rehab for sewer main leaks	100,000
	Total	100,000
	Total Utility Fund	\$ 963,000

* \$5,000 plus life span of more than one (1) year

**City of Murphy – General Fund
Proposed Operational Capital Projects *
FY 2019**

Department	Description of item/project	Amount
Fire	Ambulance Replacement	250,000
	Total	250,000
Police	Elliptical Trainer	5,500
	3-Wheel Segway (patrolling linear park and events) (Move 2019)	8,000
	Covert Radar Data Collector/Analysis System	10,000
	2 Patrol Vehicles	115,000
	Total	138,500
Parks	F-250 Truck - replacement for Truck #117 (2003 F-150)	26,000
	Replacement Batwing Mower	65,000
	Replacement Toro ZTR Mower	13,500
	Total	104,500
	Total General Fund	\$ 493,000

* \$5,000 plus life span of more than one (1) year

City of Murphy – Utility Fund Proposed Operational Capital Projects * FY 2019		
Department	Description of item/project	Amount
Customer Service	\$1,500 x 6 workstations	9,000
	Total	9,000
Water Distribution	Valve machine trailer	20,000
	Replace Cast Iron Water Main on Kinney Drive (from S Maxwell/Kinney Dr. to Ridgeview/Kinney Drive)** Engineer Quote - 2014 Project #6	616,000
	S Maxwell Creek Road to Ridgeview Drive Water Loop** Engineer Quote - 2014 Project #7	150,000
	Betsy Lane Elevated Storage Tank - Internal Paining	365,000
	Total	1,151,000
Wastewater Collection	Smoke Testing & Rehab for sewer main leaks	100,000
	Total	100,000
Total Utility Fund		\$ 1,260,000

* \$5,000 plus life span of more than one (1) year

**City of Murphy - General Fund
Proposed Operational Capital Projects *
FY 2020**

Department	Description of item/project	Amount
Fire	Replace 1 Staff Vehicle - Fire Chief	90,000
	Certified Physical Ability Test w/ Trailer	60,000
	Total	150,000
Police	1 Staff Car (CID) @ 26,000 (Unit 40)(Move to 2020)	26,000
	Replace 3 patrol units @ \$57,500 each	115,000
	2 Tasers @ \$1,500 each	3,000
	Handheld Replacement Program 2 HH @ \$5,000 each	10,000
	Total	154,000
Total General Fund		\$ 304,000

* \$5,000 plus life span of more than one (1) year



Court Restricted Funds

(Building Security Fund

Judicial Efficiency Fund

Juvenile Case Management Fund Budgets)

Fiscal Year 2016

Court Restricted Fund

Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
Beginning Fund Balance	\$ 124,674	\$ 101,372	\$ 101,372	\$ 84,472
Revenue				
<i>Building Security Fund</i>	8,931	9,000	8,000	9,000
<i>Court Technology Fund</i>	11,902	12,000	10,000	11,000
<i>Judicial Efficiency Fund</i>	972	1,100	800	900
<i>Juv Case Mgt Fund</i>	16,349	16,000	14,000	15,000
Total Revenues	\$ 38,153	\$ 38,100	\$ 32,800	\$ 35,900
Expenditures				
<i>Building Security Fund</i>	12,416	16,700	13,200	16,700
<i>Court Technology Fund</i>	19,039	6,200	5,500	5,200
<i>Judicial Efficiency Fund</i>	-	1,000	1,000	1,000
<i>Juv Case Mgt Fund</i>	30,000	30,000	30,000	30,000
Total Expenditures	\$ 61,455	\$ 53,900	\$ 49,700	\$ 52,900
Revenues less Expenditures	\$ (23,302)	\$ (15,800)	\$ (16,900)	\$ (17,000)
Ending Fund Balances	\$ 101,372	\$ 85,572	\$ 84,472	\$ 67,472



Community Events

Fiscal Year 2016

Community Events

The City of Murphy holds numerous community events annually including Arbor Day, two Recycle/Shredding days, Rainbow Trout Roundup, Moonlight Movies, Sounds at Sundown, Experience Murphy. Our biggest annual event is Murphy Maize Days and 5k; anticipated attendance is 10,000 to enjoy the vendors, Kids Zone, bounce houses, various performers, and the Grand Finale Show which includes fireworks. Murphy has a strong community spirit which continues to grow through these community events.

Community Events FY 2016 Proposed Budget Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
<i>Beginning Fund Balance</i>	\$0	\$0	\$0	\$53,000
<i>Revenue</i>				
<i>Donations/Fees</i>	0	0	10,000	10,000
<i>Transfers from MCDC</i>	0	200,500	200,500	309,600
<i>Total Revenues</i>	\$0	\$200,500	\$210,500	\$319,600
<i>Expenditures</i>				
<i>Community Events</i>	0	200,500	157,500	309,600
<i>Total Expenditures</i>	\$0	\$200,500	\$157,500	\$309,600
<i>Revenues less Expenditures</i>	\$0	\$0	\$53,000	\$10,000
<i>Ending Fund Balance</i>	\$0	\$0	\$53,000	\$63,000



Murphy Cable TV PEG

Fiscal Year 2016

Murphy Cable TV PEG

The state issued cable service or video franchise requires that the cable services and video service provider pays directly to each city in which it provides service a franchise fee of 5% of its gross revenue (a defined term in Chapter 66), even if the incumbent cable provider is paying a smaller percentage or on different gross revenue base amount. Pro rata and 1% payment in lieu of in-kind PEG/I-Net facilities (Section 66.006): Chapter 66 also provides that if the incumbent cable provider pays any cash payments to the city in support of public educational, governmental channels or to support an institutional network, those cash payments are matched by the state-issued franchise holder as calculated by the city on a per subscriber basis. After the expiration of the incumbent cable franchise, all the state-issued franchise holders pay, at the cities choice, either an additional PEG capital support fee equal to 1% of its gross revenue or a fee equal to the per subscriber cash payments that were made under the expired incumbent's cable franchise.

**Murphy Cable TV PEG
FY 2016 Proposed Budget
Summary of Revenues & Expenditures**

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
<i>Beginning Fund Balance</i>	\$0	\$0	\$12,765	\$13,965
<i>Revenue</i>				
<i>Cable TV</i>	12,765	0	5,200	5,200
Total Revenues	\$12,765	\$0	\$5,200	\$5,200
<i>Expenditures</i>				
<i>Software Maintenance</i>	0	0	4,000	5,200
<i>Total Expenditures</i>	<u>\$0</u>	<u>\$0</u>	<u>\$4,000</u>	<u>\$5,200</u>
<i>Revenues less Expenditures</i>	\$12,765	\$0	\$1,200	\$0
<i>Ending Fund Balance</i>	\$12,765	\$0	\$13,965	\$13,965



Utility Fund Budget

Fiscal Year 2016

City of Murphy
FY 16 Proposed Budget Summary

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
WATER/SEWER FUND				
Cash on hand				-
REVENUES				
TOTAL OTHER REVENUE	191,128	183,500	180,900	178,500
TOTAL WATER REVENUE	4,297,251	5,255,000	4,400,000	4,700,000
TOTAL SEWER REVENUE	2,270,796	2,715,000	2,800,000	3,013,700
TOTAL REVENUES	6,759,175	8,153,500	7,380,900	7,892,200
DEPARTMENT				
TOTAL WATER DISTRIBUTION	3,756,649	4,716,700	4,334,600	4,729,100
TOTAL WASTEWATER COLLECTION	1,544,524	1,654,300	1,829,000	2,033,100
TOTAL CUSTOMER SERVICE	507,610	857,200	868,200	790,800
Total Department	5,808,783	7,228,200	7,031,800	7,553,000
Transfer to General Fund	850,000	850,000	850,000	850,000
Total Expenses	6,658,783	8,078,200	7,881,800	8,403,000
Revenues less Expenses	100,392	75,300	(500,900)	(510,800)

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	860,489	1,066,800	1,017,900	1,100,900
Materials & Supplies	185,765	399,500	398,300	350,500
Contractual Services	3,747,317	4,259,900	4,268,800	4,751,500
Capital Outlay	221,756	771,300	452,300	166,200
Debt Services	793,455	730,700	894,500	1,183,900
Total	5,808,783	7,228,200	7,031,800	7,553,000

Water Distribution

The Water Distribution maintains and repairs 100 miles of main lines and approximately 950 fire hydrants and provides the maintenance on all water valves that supply the flow of portable water. The department maintains approximately 5,800 water meters.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	501,069	626,600	599,900	652,100
Materials & Supplies	164,005	111,500	112,300	136,600
Contractual Services	2,788,943	3,209,600	3,177,400	3,563,600
Capital Outlay	136,679	603,200	279,200	136,500
Debt Services	165,953	165,800	165,800	240,300
Total	3,756,649	4,716,700	4,334,600	4,729,100

Personnel Breakdown	FY14	FY15	FY16
Maintenance Worker II	1	1	1
Total	1	1	1

Wastewater Collection

Wastewater Collection is responsible for the distribution of all wastewater to the wastewater treatment plant in Wylie, Texas. This service includes the operation, maintenance, and repair of 100 miles of sewer mains, 800 manholes, and the Windy Hills Farm lift station connected to the wastewater collection system. The City contracts with North Texas Municipal Water District for the treatment of the city's wastewater at a shared wastewater treatment plant located in Wylie, Texas.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	60,217	67,200	48,700	65,600
Materials & Supplies	14,745	42,200	42,200	63,700
Contractual Services	759,561	874,000	903,400	960,200
Capital Outlay	82,499	106,000	106,000	
Debt Services	627,502	564,900	728,700	943,600
Total	1,544,524	1,654,300	1,829,000	2,033,100

Personnel Breakdown	FY14	FY15	FY16
Maintenance Worker II	1	1	1
Total	1	1	1

Customer Service

The Customer Service Center for the City of Murphy is committed to delivering superior customer service that meets and strives to exceed the needs of our residents, business owners, and others with unsurpassed professionalism, politeness, and promptness. Our Customer Service Center is uniquely positioned to handle a variety of demands including, but not limited to, building projects, water, sewer and solid waste issues. This allows our department to be the center of customer service needs.

The Customer Service Center oversees many aspects of utility billing and building projects. Not only does this department manage the City's billing for water, wastewater, recycling, and trash service. It is also responsible for overseeing the permitting and building project process which includes handling commercial, residential and health permits along with building inspections request.

Expenditures by Category	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Requested
Personnel Services	299,203	373,000	369,300	383,200
Materials & Supplies	7,015	245,800	243,800	150,200
Contractual Services	198,813	176	188,000	227,700
Capital Outlay	2,579	62,100	67,100	29,700
Debt Services				
Total	507,610	857,200	868,200	790,800

Personnel Breakdown	FY14	FY15	FY16
Customer Service Manager	1	1	1
Assistant Customer Service Manager	1	1	1
Customer Service Specialist	4	4	4
Total	6	6	6



Capital Improvement Fund Budget

Fiscal Year 2016

Capital Improvement Fund
Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
Beginning Fund Balance				
	<u>\$ 506,141</u>	<u>\$ 252,192</u>	<u>\$ 252,192</u>	<u>\$ 240,192</u>
Revenues				
Miscellaneous Revenue	-	-	7,000	-
Interest Income	314	400	300	300
	<u>314</u>	<u>400</u>	<u>300</u>	<u>300</u>
Total Revenues	\$ 314	\$ 400	\$ 7,300	\$ 300
Expenditures				
Contractual Services	-	-	-	-
Capital Outlay	254,263	-	19,300	-
	<u>254,263</u>	<u>-</u>	<u>19,300</u>	<u>-</u>
Total Expenditures	\$ 254,263	\$ -	\$ 19,300	\$ -
Revenues Over (Under) Expenditures	<u>\$(253,949)</u>	<u>\$ 400</u>	<u>\$ (12,000)</u>	<u>\$ 300</u>
Fund Balance	<u>\$ 252,192</u>	<u>\$ 252,592</u>	<u>\$ 240,192</u>	<u>\$ 240,492</u>



Capital Construction Fund Budget

Fiscal Year 2016

Capital Construction Fund

Agenda Item 7.A.

Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
Beginning Fund Balance	\$3,265,199	\$3,174,583	\$3,174,583	\$3,654,783
Revenue				
<i>Bond Proceeds</i>	-	-	-	-
<i>Interest</i>	4,901	4,000	4,000	2,000
<i>Texas Parks WD Grants</i>	115,128	-	-	-
<i>Collin County Grant</i>	233,396	-	500,000	-
<i>State of Texas - RTR</i>	135,322	332,900	2,635,900	-
<i>Safe Routes To School Collin County</i>	120,205	1,029,600	999,600	-
<i>McCreary</i>	36,203	-	-	-
<i>Transfer from MMDD</i>	850,000	-	-	-
<i>Misc Revenue</i>	369,604	-	-	-
<i>Donations</i>	55,509	-	5,000	-
Total Revenues	1,920,268	1,366,500	4,139,500	2,000
Expenditures				
<i>Contractual Services</i>	324,513	29,900	188,900	20,000
<i>Capital Outlay</i>	1,686,371	3,618,400	3,475,400	2,670,800
Total Expenditures	2,010,884	\$3,648,300	\$3,664,300	\$2,690,800
Revenues less Expenditures	(90,616)	(2,281,800)	475,200	(2,688,800)
Ending Fund Balance	\$3,174,583	\$892,783	\$3,649,783	\$965,983



Utility Capital Construction Fund Budget

Fiscal Year 2016

Utility Capital Construction Fund

Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
Beginning Fund Balance	\$ 1,185,467	\$ 1,066,656	\$ 1,066,656	\$ 1,653,656
Revenue				
Interest	1,107	1,200	2,000	1,200
Bond Proceeds		3,000,000	3,000,000	-
Total Revenues	\$ 1,107	\$ 3,001,200	\$ 3,002,000	\$ 1,200
Expenditures				
Contractual Services	71,618	375,000	215,000	300,000
Capital Outlay	48,300	3,455,000	2,200,000	1,291,000
Total Expenditures	\$ 119,918	\$ 3,830,000	\$ 2,415,000	\$ 1,591,000
<i>Revenues less Expenditures</i>	\$ (118,811)	\$ (828,800)	\$ 587,000	\$ (1,589,800)
Ending Fund Balance	\$ 1,066,656	\$ 237,856	\$ 1,653,656	\$ 63,856



Proposed Community Improvement Capital Program

Fiscal Year 2016

City of Murphy
Community Improvement Capital Program *
FY 2016

General Fund Department	Description of item/project	Amount
Radio System	USDD Digital Dispatch System for Automated Dispatching	155,000
	Upgrade Dispatch Consoles to Digital Capabilities	324,000
	Radio System Upgrade to recommended PAWM Conversion	791,000
	Radios - Public Works	85,000
	Replace HH and Portable radios no longer serviced Fire & PD	514,806
	US Digital Dispatch for Fire Station Alerting	180,000
	Microwave dish (2) and tripod tower	250,000
	<u>Total</u>	<u>2,299,806</u>
Municipal Buildings Renovation/Maintenance	Roofs	508,000
	Generators	145,000
	Overhead doors (Fire, Police & Public Works)	100,000
	Fire - renovation	2,000,000
	PD - renovation	300,000
	Dispatch - remodel/relocate	45,000
	City Hall/ - renovation	300,000
	MAC - renovation	550,000
	Public Works - renovation & addition of outside storage areas	150,000
	Replace chillers	241,000

	<u>Total</u>	<u>4,339,000</u>
Fire	Quint Replacement	1,000,000
	Tools and Supplies Replacement for New Quint	225,000
	<u>Total</u>	<u>1,225,000</u>
Public Works	Street Improvements for Asphalt Roads throughout City: Tom Clevenger, Maxwell Creek Rd. (North & South), McMillen Rd., Kinney Dr., McWhirter, and Misc. Repairs**	4,500,000
	Sidewalk Replacement Program	1,500,000
	Total	6,000,000
Recreation	Recreation Fields	TBD
	<u>Total</u>	-
	<u>Total General Fund</u>	<u>13,863,806</u>
Utility Fund		
Water Distribution	North Maxwell Creek Road Waterline concrete paving**	2,600,000
	North Maxwell Creek Road Waterline Replacement ** Quote 2014 Project #3	247,000
	South Maxwell Creek Road Waterline Replacement ** Quote 2014 Project #4	716,000
	Ground Storage paint and repair <u>2 million gallon, 1 million gallon , 250,000 gallon tanks.</u>	821,000
	<u>Total</u>	<u>4,384,000</u>
	<u>Total Utility Fund</u>	<u>4,384,000</u>
	<u>Total CIP</u>	<u>18,247,806</u>

*

\$5,000 plus life span of 5 plus years and significant community impact



Municipal Development District Budget

Fiscal Year 2016

Municipal Development District

The Murphy Municipal Development District (MMDD) was created through an election for an additional sales tax by the City of Murphy's voters, similar to 4B EDC. Formed in April 2012 by the voters of Murphy, the MMDD replaced the Murphy Economic Development Corporation (4A). The MMDD receives funds from a half-cent sales tax generated within the city limits, and a five-member Board is appointed by the Murphy City Council.

The MMDD's primary purpose is to manage a development project fund in which the MMDD must deposit the half-cent sales tax proceeds into the fund. The revenues may be used to pay costs associated with development projects in the MMDD such as promoting economic growth, carrying out programs related to community development, and promoting new and expanded business enterprises.

The goals of the MMDD include promoting and retaining businesses that are unique to Murphy that will enhance the quality of life with family oriented activities, encouraging organizations and residents to reinvest in their community and strengthening the economic base with businesses that generate sales tax revenue.

Murphy Municipal Development District

Proposed FY 2016 Budget

Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
Beginning Fund Balance	\$ 871,767	\$ 1,235,640	\$ 1,235,640	\$ 1,749,940
Revenue				
<i>Sales Tax</i>	787,543	883,600	885,000	931,500
<i>Other Revenue</i>	871,869	2,600	2,800	2,800
Total Revenues	\$ 1,659,412	\$ 886,200	\$ 887,800	\$ 934,300
Expenditures				
<i>Contractual Services</i>	315,870	315,870	245,300	405,800
<i>Capital Outlay</i>	1,000	1,000	-	53,500
<i>Debt Service</i>	128,669	128,669	128,200	131,200
Total Expenditures	\$ 445,539	\$ 445,539	\$ 373,500	\$ 590,500
Transfer to Capital Construction	850,000	850,000	-	-
Revenues less Expenditures	\$ 363,873	\$ 440,661	\$ 514,300	\$ 343,800
Ending Fund Balance	\$ 1,235,640	\$ 1,676,301	\$ 1,749,940	\$ 2,093,740



Community Development Corporation Budget

Fiscal Year 2016

Community Development Corporation

The Murphy Community Development Corporation was formed in 2003 by the voters of Murphy and receives funds from the half-cent sales tax for community development projects. The seven-member board is appointed by the Murphy City Council. Community projects are identified and funded by sales tax. Expenditures are subject to the provisions of the Development Corporation Act of 1979.

The half-cent sales tax has enabled the City of Murphy to fund several quality-of-life projects such as park improvements and community events.

Community Events Funder FY 2016 Proposed Budget Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
<i>Beginning Fund Balance</i>	\$0	\$0	\$0	\$53,000
<i>Revenue</i>				
<i>Donations/Fees</i>	0	0	10,000	10,000
<i>Transfers from MCDC</i>	0	200,500	200,500	309,600
<i>Total Revenues</i>	\$0	\$200,500	\$210,500	\$319,600
<i>Expenditures</i>				
<i>Community Events</i>	0	200,500	157,500	309,600
<i>Total Expenditures</i>	\$0	\$200,500	\$157,500	\$309,600
<i>Revenues less Expenditures</i>	\$0	\$0	\$53,000	\$10,000
<i>Ending Fund Balance</i>	\$0	\$0	\$53,000	\$63,000

Murphy Community Development Corporation

Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
<i>Beginning Fund Balance</i>				
	\$352,920	\$454,709	\$454,709	\$450,710
<i>Revenue</i>				
<i>Sales Tax</i>	800,092	883,600	885,000	931,500
<i>Interest</i>	262	300	200	300
<i>Total Revenues</i>	\$800,354	\$883,900	\$885,200	\$931,800
<i>Expenditures</i>				
<i>Personnel Services</i>	2,215	61,100	53,600	100,400
<i>Materials & Supplies</i>	163,716	201,300	201,000	344,000
<i>Contractual Services</i>	152,816	198,400	161,300	278,900
<i>Capital Outlay</i>	51,449	148,800	144,300	189,500
<i>Debt Service</i>	328,369	329,000	329,000	334,200
<i>Total Expenditures</i>	\$698,565	\$938,600	\$889,200	\$1,247,000
<i>Revenues less Expenditures</i>	\$101,789	(\$54,700)	(\$4,000)	(\$315,200)
<i>Ending Fund Balance</i>	\$454,709	\$400,009	\$450,710	\$135,510



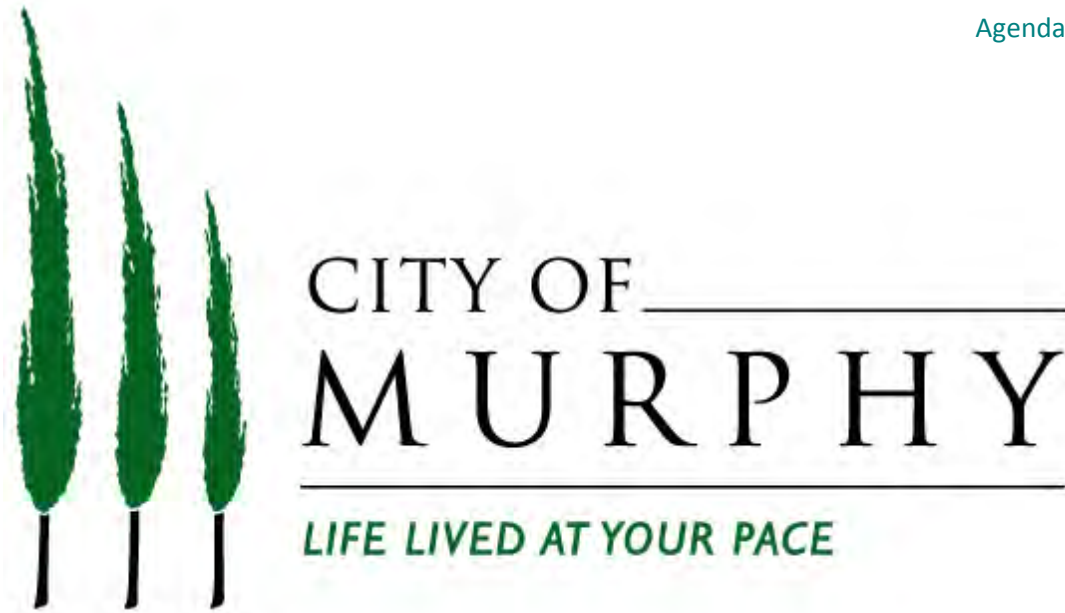
Debt Service Fund Budget

Fiscal Year 2016

Debt Service Fund

Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
<i>Beginning Fund Balance</i>				
	\$ 844,034	\$ 836,120	\$ 836,120	\$ 855,320
<i>Revenue</i>				
<i>Property Taxes</i>	3,727,143	3,843,900	3,843,900	3,874,600
<i>Delinquent Property Taxes</i>	15,517	8,000	8,000	8,000
<i>Interest</i>	13,435	15,500	14,000	15,000
<i>Total Revenues</i>	3,756,095	3,867,400	3,865,900	3,897,600
<i>Expenditures</i>				
<i>Principal</i>	2,520,000	2,680,000	2,680,000	2,795,000
<i>Interest</i>	1,241,709	1,163,900	1,163,900	1,079,600
<i>Agent Fee</i>	2,300	2,800	2,800	2,800
<i>Total Expenditures</i>	\$ 3,764,009	\$ 3,846,700	\$3,846,700	\$3,877,400
<i>Transfers</i>		-	-	-
<i>Revenues less Expenditures</i>	\$ (7,914)	\$ 20,700	\$ 19,200	\$ 20,200
<i>Ending Fund Balance</i>	\$ 836,120	\$ 856,820	\$ 855,320	\$ 875,520



Impact Fund Budget

Fiscal Year 2016

Impact Fund

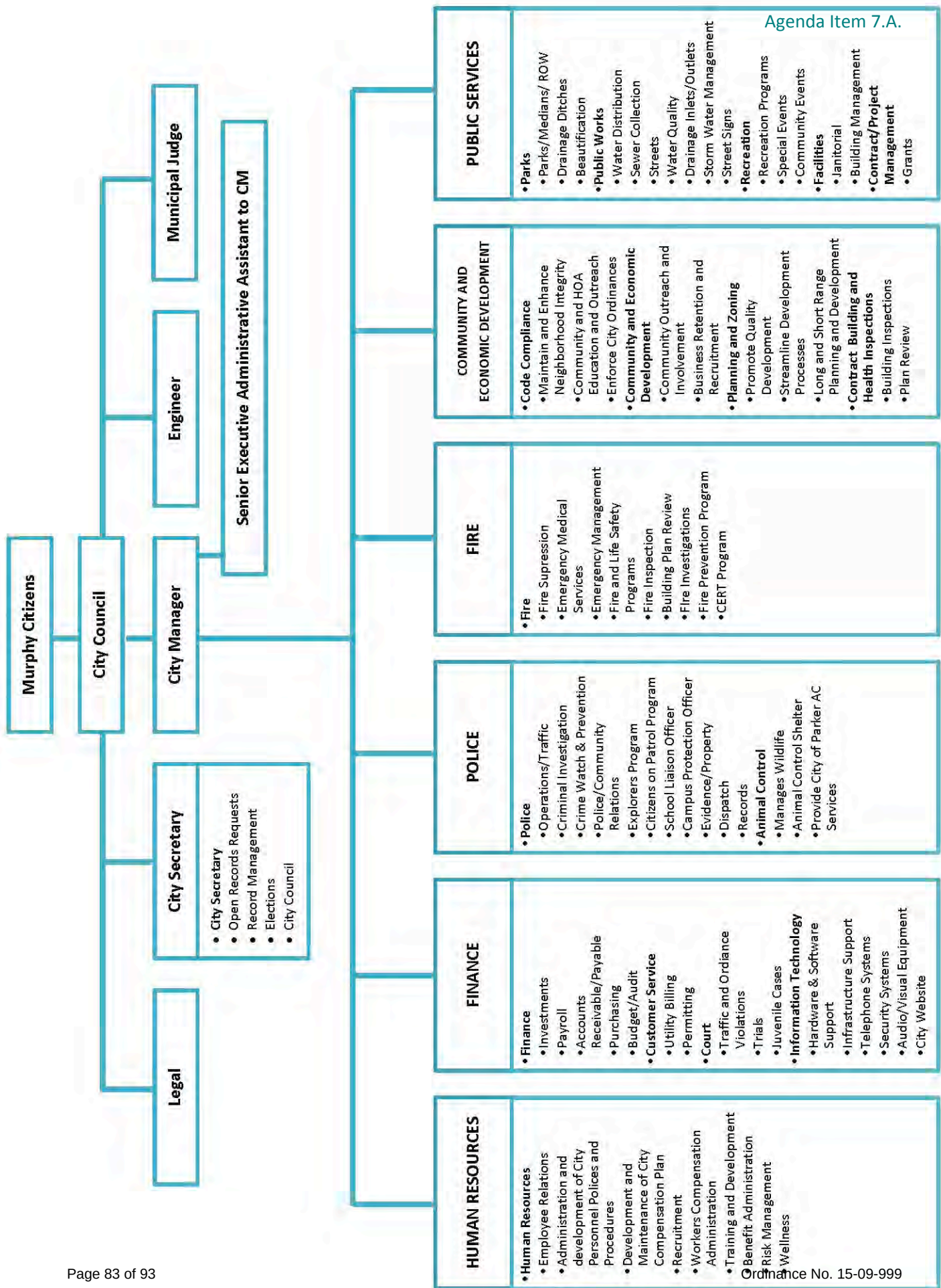
Summary of Revenues & Expenditures

	FY14 Actual	FY15 Budget	FY15 Projected	FY16 Proposed
Beginning Fund Balance	\$ 651,923	\$ 647,150	\$ 647,150	\$ 402,750
Revenue				
Water Impact Fee	117,939	93,700	55,300	58,400
Sewer Impact Fee	338,929	271,600	164,400	163,000
Interest	619	500	400	400
Total Revenues	\$ 457,487	\$ 365,800	\$ 220,100	\$ 221,800
Expenditures				
Capital Projects	462,260	462,800	464,500	373,800
Total Expenditures	\$ 462,260	\$ 462,800	\$ 464,500	\$ 373,800
Revenues less Expenditures	\$ (4,773)	\$ (97,000)	\$ (244,400)	\$ (152,000)
Ending Fund Balance	\$ 647,150	\$ 550,150	\$ 402,750	\$ 250,750



Additional Information

Fiscal Year 2016





Personnel Schedule

Fiscal Year 2016

**PERSONNEL SCHEDULE
FISCAL YEAR 2016**

DEPARTMENT/POSITION TITLE	FY15	FY16
City Manager		
City Manager	1	1
Executive Assistant to the City Manager	1	1
TOTAL FULL - TIME	2	2
Human Resources		
Human Resources Manager	1	1
TOTAL FULL - TIME	1	1
Information Technology		
IT Manager	1	1
Network Analyst	1	1
Web Admin/Support Analyst	1	1
IT Business Analyst	1	1
GIS Analyst		1
TOTAL FULL - TIME	4	5
City Secretary		
City Secretary	1	1
TOTAL FULL - TIME	1	1
Finance		
Finance Director	1	1
Assistant Finance Director	1	1
AP/Payroll Specialist II	1	1
AP/Payroll Specialist I	1	1
TOTAL FULL - TIME	4	4
Fire		
Fire Chief	1	1
Assistant Fire Chief	1	1
Fire Marshall	1	1
Lieutenant	3	3
Administrative Assistant	1	1
Driver/Engineer	3	3
Firefighter/Paramedic	15	15
TOTAL FULL - TIME	25	25

**PERSONNEL SCHEDULE
FISCAL YEAR 2016**

DEPARTMENT/POSITION TITLE	FY15	FY16
Facilities		
Facilities Superintendent	1	1
Custodian	2	2
Maintenance Technician		1
TOTAL FULL - TIME	3	4
Community Services		
Administrative Assistant	0.6	0.6
Code Compliance Supervisor	1	1
Code Compliance Officer	2	2
Director Of Community & Economic Development	0.6	0.6
TOTAL FULL - TIME	4.2	4.2
Economic Development		
Director of Community & Economic Development	0.4	0.4
Administrative Assistant	0.4	0.4
Economic Development Coordinator	1	1
TOTAL FULL - TIME	1.8	1.8
Police		
Police Chief	1	1
Executive Administrative Assistant	1	1
Lieutenant	1	1
Sergeant	4	4
Police Officers	16	16
School Campus Protection Officer	1	1
School Resource Officer	1	1
Support Services Manager	1	1
Communications Supervisor	1	1
Communications Officer	8	8
Crossing Guards - PART TIME	13	11
TOTAL FULL - TIME	35	35
TOTAL PART - TIME	13	11
Animal Control		
Animal Control Officer	2	2
TOTAL FULL - TIME	2	2

**PERSONNEL SCHEDULE
FISCAL YEAR 2016**

DEPARTMENT/POSITION TITLE	FY15	FY16
Recreation		
Manager of Recreation Services	1	1
Recreation Specialist II	1	1
Recreation Specialist I	1	1
Recreation Specialist - PART TIME	4	4
TOTAL FULL - TIME	3	3
TOTAL PART - TIME	4	4
Parks		
Director of Public Services	0.5	0.5
Parks Superintendent	1	1
Sr. Grounds Keeper	1	1
Grounds Keeper II	4	4
Grounds Keeper I	3	4
Administrative Assistant	0.5	0.5
TOTAL FULL - TIME	10	11
Municipal Court		
Judge	1	1
Court Administrator	1	1
Juvenile Case Manager	1	1
Deputy Court Clerk	1	1
TOTAL FULL - TIME	4	4
Water Distribution		
Director of Public Services	0.5	0.5
Public Works Superintendent	1	1
Sr. Maintenance Worker	1	1
Maintenance Worker II	3	3
Maintenance Worker I	4	4
Administrative Assistant	0.5	0.5
TOTAL FULL - TIME	10	10
Waste Water Collections		
Maintenance Worker II	1	1
TOTAL FULL - TIME	1	1

**PERSONNEL SCHEDULE
FISCAL YEAR 2016**

DEPARTMENT/POSITION TITLE	FY15	FY16
Customer Service		
Customer Service		
Manager	1	1
Assistant Customer Service		
Manager	1	1
Customer Service		
Specialist	4	4
TOTAL FULL - TIME	6	6
 Murphy Community Development Corporation		
Special Events		
Coordinator	1	1
TOTAL FULL - TIME EMPLOYEES	1	1
 TOTAL FULL - TIME EMPLOYEES	118	121
TOTAL PART - TIME EMPLOYEES	17	15

2016 Budgetary Financial Policies

Financial policies set forth the basic framework for the fiscal management of the City. Policies, which are reviewed and approved by the City Council, will be updated and implemented annually to ensure the City maintains a sound financial position in each of the City's fund and account groups. These policies are developed within the parameters set forth in the City's Charter, Article VII. The policies will provide guidelines for short and long term decision making.

A. Operating Funds Budget Policies

1. Prior to August 10th of each year the City Manager shall prepare and submit to the City Council, the annual budget covering the next fiscal year. A budget message shall be prepared in accordance with City Charter requirements.
2. The City shall operate on a current funding base. Expenditures shall be budgeted and controlled so as not to exceed current revenues plus the planned use of fund balance accumulated through prior year savings and any transfers.
3. Transfers between funds shall only be permitted to the extent that the basis and justification of the transfer can be quantified. Periodic transfers are made for administrative cost reimbursements to the various funds. In addition, fund transfers may occur when surplus fund balances are used to support non-recurring capital expenses.
4. One-time revenues in operating funds will not be used for funding of ongoing expenditures. One-time revenues shall only be used to fund capital improvements, capital equipment, or other one-time expenditures.

B. General Fund Revenue Policies

1. All new programs or service enhancements shall be implemented according to Council direction as a part of the budget process. In the event additional revenues are required to implement a new program or service enhancement, a cost benefit analysis of the program change will be conducted by the staff to determine if a new revenue source or increase in existing revenue will be needed. The analysis shall include the applicability of user fees as a source of revenue to support the new or expanded program. The maintenance and operation portion of the General Fund ad valorem tax rate shall only be raised after thorough review of other revenue sources.
2. Through the proposed budget the City shall strive to develop a balance in major revenue sources to protect the financial stability of the City in the event of severe fluctuation in the national and/or local economy. This balance will maintain a diversified and stable revenue system. The major revenue sources of the General Fund are Ad Valorem taxes, Sales Tax, Permits and all other charges for fines and services.

3. Charges for services shall be reviewed and updated at least every five years. The review will consider the cost of providing the service and a review of similar charges in comparable cities in the region.
4. Revenues shall be projected based on actual collections from the preceding year and estimated collections of the current fiscal year, while taking into account known circumstances that will impact revenues for the new fiscal year. Revenue projections will be made conservatively.

C. Utility Fund Revenue Policies

1. A cost of service rate study will be conducted to determine rates necessary to fund the utility fund for five years. Annual reviews by staff will be performed and updates to the study will be performed as necessary to ensure that the rates in effect will fund the utility budgets.
2. Capital improvements and participation in the oversizing of utility facilities during the development of the City required as a result of growth should be paid in part through impact fees that are reviewed and adjusted within the requirements of the statute allowing their utilization.
3. Utility Fund revenues are budgeted on the basis of a normal year, not on the basis of forecasted extreme wet or dry years. The City will make every reasonable effort to ensure that an accurate measurement of water purchased and sold is maintained.
4. The City shall consider the appropriateness of using contract revenue bonds issued through the NTMWD when considering the issuance of revenue bonds.

D. Debt Service Fund Revenue and Expenditure Policies

1. The City will issue only multi-year debt and the debt will be used only to fund capital projects that cannot be funded by current revenues except as may be otherwise required by an emergency or other unforeseen circumstance.
2. To minimize interest costs on issued debt, the City will structure debt with maturities not to exceed 20 years. Longer issues may be authorized in the unusual case of a substantially longer life or other extenuating circumstances. The final maturity date for any multi-year debt will not exceed the expected useful life of the capital improvement so financed.
3. An evaluation of existing and projected overlapping and direct debt shall be reviewed by the City Council, City's Financial Advisors, as well as any committee appointed by the Council to develop recommendations for proposed new debt for the City. Estimates of growth shall be conservative and consideration will be given as to the City's future ability to repay the debt and maintain an ability to issue additional unforeseen debt.

E. Special Revenue Funds Revenue and Expenditure Policies

1. Special revenues include funds received for park programs. Funds generated from this source will be used for the expansion of park services.

F. Reserve Fund Balance Policies

1. The proposed General Fund budget shall be submitted to the City Council with a fund balance reserve of not less than 10 percent of total budgeted expenditures for each fiscal year. It is the goal of the Council to accumulate a fund balance of 15 percent of total expenditures.

Within the Reserve Fund, Replacement Fund shall be created and funded. The Replacement Fund is intended to fund major expenditures that the City will incur as it strives to provide for its citizens. The City Council will consider allocating the following percentages of the total General Fund expenditure budget annually during its budget retreat:

1% Fire Department Vehicle and Equipment Replacement Fund;

1% Vehicle Replacement Fund;

1% Equipment Replacement Fund; and

2% Building Renovation and Repair Fund

2. Debt Service Fund balances shall not have a balance that exceeds five percent of the general obligation debt outstanding principal. Debt service fund balances in excess of this requirement may be drawn down to be used to reduce ad valorem tax revenue for bond principal and interest payments on existing or new debt. Consideration will be given to the impact such use would have on future tax rate calculations. Fund balance requirements shall always be in agreement with bond covenants.

3. All other fund balances shall be maintained at a level necessary to ensure stability in the event of a decline in revenues dedicated to that fund.

4. Fund balances which exceed the minimum levels established for each fund may be used for non-recurring capital projects or programs or in emergency situations.

G. Operating Fund Expenditures

1. Operating fund expenditures shall be accounted for and budgeted in four major categories:

- a. Personnel Services
- b. Materials and Supplies
- c. Contractual Services
- d. Capital Outlay

2. The operating budgets for all Funds shall be approved by the City Council at the departmental level. ***Any change to a department's line item budget more than 25%, the City Manager shall notify the City Council and discuss the change in the next monthly financial report.*** Reviews of the operating budgets shall be performed quarterly or as needed and budget amendments shall be presented to City Council when necessary.
3. The proposed budget shall appropriate sufficient funds for operations to maintain existing quality and scope of City services and where appropriate include funds for expanded or new services.
4. The City will regularly examine programs and services in order to reduce operating cost or enhance service levels without cost increases.
5. Personnel service expenditures will reflect the minimum staffing to provide approved quality and scope of City services.
6. The City will provide a competitive compensation and benefit plan to attract and retain quality employees in order to provide high quality service.
7. Supply expenditures shall be sufficient to ensure optimal productivity of City employees. Maintenance expenditures shall be sufficient to ensure a relatively stable level of maintenance expenditures each budget year and to enhance and prolong the life of capital equipment and property.
8. Expenditures for new capital equipment shall be made only to enhance employee productivity, improve quality of service, or expand scope of services.
9. The City will evaluate the methods for providing public services in order to reduce operating expenditures and/or enhance quality and scope of services without increased costs.

H. Capital Project Expenditures

1. The City will develop a multi-year plan for capital projects, which identifies all projects likely to be constructed within a five-year period. The multi-year plan will reflect for each project the likely funding source and timeframe for completion.
2. Capital projects will be constructed to:
 - a. Protect or improve the community's quality of life.
 - b. Protect or enhance the community's economic vitality.
 - c. Support and service new citizens and development.
 - d. Provide significant rehabilitation of City infrastructure for sustained service.

3. The City will develop and implement a vehicle and equipment replacement program. This program will address the age, mileage/hours, repairs and condition of each vehicle and equipment in order to provide a timely replacement.

I. Budgetary Finance Committee

The City Council may appoint a Budgetary Finance Committee in July of each year for a one (1) year term. The Committee will review the City Manager's submitted August Annual Budget, the Audit Financial Report in March, and the Budgetary Financial Policies of the City. Any items of concern or interest shall be brought to the City Council's attention within thirty (30) days of receiving the proposed budget or Audit Financial Report. The Committee shall be comprised of two council members, finance director, and two citizens at large.

City of Murphy

Fiscal Year 2015–2016

Budget Cover Page

Agenda Item 7.A.

This budget will raise more revenue from property taxes than last year's budget by an amount of \$539,926, which is a 5.46 percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is \$200,093.

The members of the governing body voted on the budget as follows:

FOR:

AGAINST:

PRESENT and not voting:

ABSENT:

Property Tax Rate Comparison

	2015-2016	2014-2015
Property Tax Rate:	\$0.530000/100	\$0.550000/100
Effective Tax Rate:	\$0.511745/100	\$0.531741/100
Effective Maintenance & Operations Tax Rate:	\$0.312876/100	\$0.318578/100
Rollback Tax Rate:	\$0.534685/100	\$0.557794/100
Debt Rate:	\$0.196779/100	\$0.213730/100

Total debt obligation for City of Murphy secured by property taxes: \$3,874,567

**City Council Meeting
September 15, 2015**

Issue

Consider and/or act upon ratifying the property tax revenue increase reflected in the 2015-2016 fiscal year budget.

Staff Resource/Department

James Fisher – City Manager
Linda Truitt – Finance Director

Background/History

The budget is adopted annually by the governing body of the City of Murphy for revenues and expenditures of City funds. Legislation requires two votes by the City Council when the budget will raise more property tax revenue than was generated in the previous year. The first vote is to adopt a budget. The second vote by the City Council is to ratify the property tax revenue increase reflected in the budget.

Adoption of the annual budget constitutes the proposed revenues and expenditures as approved by the governing body for the fiscal year.

Financial Considerations

This budget will raise more total property taxes than last year's budget by \$539,926, or 5.46%, and of that amount \$200,093 is tax revenue to be raised from new property added to the roll this year.

Action Requested

Motion to approve ratifying the property tax revenue increase reflected in the budget for the 2015-2016 fiscal year.

**City Council Meeting
September 15, 2015**

Issue

Consider and/or act upon approval of an Ordinance levying ad valorem taxes for use and support of the municipal government of the City of Murphy for the fiscal year beginning October 1, 2015 and ending September 30, 2016.

Staff Resource/Department

James Fisher – City Manager

Linda Truitt – Finance Director

Background/History

Legislation requires two votes by the City Council when the budget will raise more property tax revenue than was generated in the previous year. The first vote is to adopt a budget. The second vote by the City Council is to ratify the property tax revenue increase reflected in the budget.

The property tax rate must be approved and adopted by the governing body of the City by September 30, 2015. The Collin County Tax Office collects the property taxes for the City and has requested the adopted tax rate by September 23, 2015 in order to mail tax statements in October.

Financial Considerations

Property taxes fund the debt service obligations of the City and accounts for a large portion of the general fund revenue.

Action Requested

The following is the motion that must be made to adopt the ordinance levying ad valorem taxes: **“I move that the property tax rate be increased by the adoption of a tax rate of \$0.530000, which is effectively a 3.57 percent increase in the tax rate. Approve an ordinance fixing and levying municipal ad valorem taxes for the fiscal year beginning October 1, 2015 and ending on September 30, 2016, and for each fiscal year thereafter until otherwise provided.”**

Attachments

- 1) Ordinance

ORDINANCE NO. 15-09-1000

AN ORDINANCE OF THE CITY OF MURPHY, TEXAS, LEVYING AD VALOREM TAXES FOR USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF MURPHY, TEXAS FOR THE 2015-2016 FISCAL YEAR; PROVIDING FOR APPORTIONING EACH LEVY AND SPECIFIC PURPOSES; PROVIDING WHEN TAXES SHALL BECOME DUE AND WHEN SAME SHALL BECOME DELINQUENT IF NOT PAID.

WHEREAS, Section 26.05 of the Texas Tax Code requires that the City of Murphy, Texas, adopt a tax rate for the next fiscal year by September 30, 2015; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, THAT:

Section 1: That there is hereby levied and there shall be collected for the use and support of the municipal government of the City of Murphy for the 2015-2016 fiscal year, upon all property, real, personal and mixed, within the corporate limits of said City subject to taxation, a tax of **\$0.530000** on each \$100 valuation of property, said tax being so levied and apportioned to the specific purposes here set forth:

- a. For the maintenance and support of the General Government (General Fund) for the fiscal year 2015-2016, **\$0.333221** on each \$100 valuation of property. **THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.**

THE TAX RATE WILL EFFECTIVELY BE RAISED BY 6.50 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$-3.05

- b. For debt services for the fiscal year 2015-2016, **\$0.196779** on each \$100 valuation of property. **THIS TAX RATE WILL DECREASE TAXES FOR DEBT SERVICE THAN LAST YEAR'S TAX RATE.**

THE TAX RATE WILL DECREASE THE TAXES PAID FOR DEBT SERVICE ON A \$100,000 HOME BY APPROXIMATELY \$16.95.

Section 2: That taxes levied under this ordinance shall be due October 1, 2015, and if not paid on or before January 31, 2016, shall immediately become delinquent.

Section 3: All taxes shall become a lien upon the property against which assessed, and the City Tax Collector, or designee, of the City of Murphy, is hereby authorized and empowered to enforce the collection of such taxes according to the Constitution and laws of the State of Texas and Ordinances of the City of Murphy, Texas. Shall, by virtue of the tax rolls, fix and establish a lien by levying upon such property, whether real or personal, for the payment of said taxes, penalty and interest and the interest and penalty collected from such delinquent taxes

shall be apportioned to the General Fund of the City of Murphy. All delinquent taxes shall bear interest from date of delinquency at the rate as prescribed by State Law.

Section 4: That the City Manager or his designee shall put the following notice on the homepage of the City's Internet website:

There is hereby levied and there shall be collected for the use and support of the municipal government of the City of Murphy for the 2015-2016 fiscal year, upon all property, real, personal and mixed, within the corporate limits of said City subject to taxation, a tax of **\$0. 530000** on each \$100 valuation of property, said tax being so levied and apportioned to the specific purposes here set forth:

“CITY OF MURPHY ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR’S TAX RATE.

THE TAX RATE WILL EFFECTIVELY BE RAISED BY 6.50 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$-3.05.”

“IN ADDITION, THE CITY OF MURPHY, TEXAS ADOPTED A TAX RATE OF \$0.196779 THAT WILL DECREASE TAXES FOR DEBT SERVICE THAN LAST YEAR’S TAX RATE.

THE TAX RATE WILL DECREASE THE TAXES PAID FOR DEBT SERVICE ON A \$100,000 HOME BY APPROXIMATELY \$16.95.”

Section 5: That this Ordinance shall take effect and be enforced from and after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this 15th day of September, 2015.

Eric Barna, Mayor
City of Murphy

ATTEST:

Susie Quinn, City Secretary
City of Murphy

Issue

Consider and/or act upon approval of an ordinance amending the zoning classification on approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road from SF- PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential – Patio Home and Townhome with a concept plan.

Background

On September 1, 2015, the City Council held a public hearing on this item. The applicant requested the item be postponed until September 15, 2015 for City Council discussion and consideration.

Staff had been working directly with the proposed residential developers of this site for approximately six months prior to the proposed zoning change request being brought forward to Planning & Zoning Commission and subsequently City Council for consideration. There have been no previous developments proposed for this site.

Summary

1. The applicant has submitted proposed Planned Development District Conditions and a proposed concept plan for a residential development of 29 Townhome lots and 15 Patio Home lots.
 - a. The proposed zoning and subdivision is compatible with the surrounding uses and is an enhancement to the eastern most border of the Murphy city limits.
 - b. The estimated preliminary price points for this subdivision are:
 - i. Patio Homes - \$259,000-\$319,000
 - ii. Townhomes - \$259,000-\$289,000
2. To address any development specifics and details for the residential restrictions of the entire approximate 6.51 acres which are in addition to or differ from the current SF-PH zoning, the property must be zoned as a Planned Development District detailing uses and conditions.
3. The property is currently zoned Single Family Residential – Patio Home (SF-PH) (Exhibit I) and is the base zoning for the Planned Development District. This single family zoning, patio home district, does not allow the requested addition of town homes or varying lot sizes; however, the applicant is requesting the approval of a Planned Development District in order to allow for the concept plan and regulations as proposed.

Subject property location

The subject property is located at the southwest corner of Betsy Road and McCreary Road and is at the southeastern border of Murphy city limits. As noted on the map included in this packet (Exhibit G), land uses directly surrounding this property include:

- Residential, Single Family (SF-9 and SF-11)
- Neighborhood Services, vacant land/future development

- Commercial
- Multi Family
- Mobile Home Park

LOT SIZES

This Planned Development proposes a residential development of 29 Townhome lots and 15 Patio Home lots; two types of lots are proposed, Type A and Type B as noted on the Concept Plan.

Type A -

- a. Type A lots – 15 total lots are proposed to allow for *Patio Home* development.
 - i. These lots are located along the western border of the development.
 - ii. Lot size = 50' x 120'
 - iii. Type A minimum Patio Home size = 1,800 square feet; the developer is proposing approximately 2,000 – 2, 500 square feet patio homes.

Type B

- a. Type B lots – 29 total lots are proposed to allow for *Townhome* development.
 - i. These lots are located along the eastern border of the development.
 - ii. Lot size = 25' x 108'
 - iii. Type B minimum Townhome size = 1,400 square feet; the developer is proposing approximately 1,400 – 1,800 square feet townhomes.

Note: The consideration of this single family zoning change is specific to the identified property and is not a consideration to create a new residential zoning category. Development of this property would be restricted to only residential use and per the specifications listed in the proposed Planned Development Standards.

Planning & Zoning Commission Consideration

The Planning & Zoning Commission voted 6-1 to approve the Planned Development District Conditions and Concept Plan as presented with the change in the PD for Type B lots to specify a minimum lot depth of 108'.

Additional Considerations

Following Planning & Zoning Commission approval, staff and the consultant continued discussions to further enhance the proposed Planned Development District conditions. Amendments for Council consideration include:

- Section 1.05 Development Regulations
 - o Townhomes – inadvertently read 'detached' and has been corrected to read 'attached' as presented.

Additional Considerations (continued)

- Section 2.04 Screening
 - o Remove verbiage: "A Five Foot Berm will be constructed adjacent to Betsy Lane in an HOA lot area along the northern Property boundary".
 - o Replace with: "A Six Foot (6') Masonry Wall/Entry Monument shall be constructed along the northern Property Boundary Line, West of "Street A".
- Section 2.06 Fences
 - o Remove verbiage: "; and (v) be pre-stained using only a cedar colored finish stain on all surfaces which are visible from the ground level of the Lot, any adjoining Lot, or any street."
 - This will allow the builder some flexibility with the neighbors as to what color stain they will use that will fit both Properties' aesthetics
 - o Amend new fence height verbiage for lots that abut the western Property line: "...specifically Lots 10 through 23 of Block "C", the Builder(s) shall be responsible for the removal of the existing six foot (6') privacy fence and installation of a new eight foot (8') privacy fence..."

Public Notice

A public hearing notification for this proposed zoning change request was published in the newspaper as well as notification being mailed to the property owners included in the required 200 feet notification radius.

- a. The reply forms received at the time of this packet are included with this item and were each received prior to the Planning & Zoning Commission's discussion and consideration/action on August 24, 2015 (Exhibit H).

Staff Recommendation

Staff recommends approval to include:

- Murphy Meadows Ordinance for Planned Development District: Single Family Residential – Patio Home and Townhome with a concept plan as presented
- And that a final site plan in general conformance with the Concept Plan, a landscape plan and construction plat including all associated engineering documents must be approved before development.

Attachments

Exhibit A – Murphy Meadows Ordinance for Planned Development District: Single Family Residential – Patio Home and Townhome with a concept plan
 Exhibit B – Murphy Meadows Patio Home rendering
 Exhibit C – Murphy Meadows Townhome rendering
 Exhibit D – Proposed eastern border perimeter fencing
 Exhibit E – Proposed Patio Home site pad configuration
 Exhibit F – Proposed Betsy Road subdivision entrance rendering
 Exhibit G – Property Map with surrounding uses identified
 Exhibit H – Public Notice Reply Forms received at time of Council packet
 Exhibit I – SF-PH, Single Family Residential – Patio Home District (for reference)
 Exhibit J – Section 28-155, General Landscape Standards (referenced in PD)

Exhibit A

Murphy Meadows Ordinance for
Planned Development District: Single
Family Residential – Patio Home and
Townhome with a concept plan

ORDINANCE NO. 15-09-1001

AN ORDINANCE OF THE CITY OF MURPHY, COLLIN COUNTY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP, CHAPTER 86, OF THE CITY OF MURPHY CODE OF ORDINANCES, AS AMENDED, BY CHANGING THE ZONING CLASSIFICATION ON APPROXIMATELY 6.5 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF BETSY ROAD AND MCCREARY ROAD IN THE CITY OF MURPHY, COLLIN COUNTY, TEXAS, FROM SINGLE FAMILY RESIDENTIAL PATIO HOME (SF-PH) TO PLANNED DEVELOPMENT DISTRICT - PATIO HOME AND TOWNHOME USES WITH A CONCEPT PLAN AND ADDITIONAL DEVELOPMENT STANDARDS; PROVIDING A CUMULATIVE/ REPEALER CLAUSE, A SEVERABILITY CLAUSE, A PENALTY CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the landowners of approximately 6.5 acres of land located at the southwest corner of Betsy Road and McCreary Road in the City of Murphy, Collin County, Texas, have requested a change in the zoning for the property described in this ordinance from Single Family Patio Home (SF-PH) to PD (Planned Development) District for Single Family Residential–Patio Home and Townhome uses with a concept plan and additional development standards consistent with the Comprehensive Plan; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Murphy, in compliance with the laws of the State of Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded full and fair hearings to all property owners generally and to all persons interested in this regard; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Murphy, in considering the application for a change in zoning of the property to a planned development district, have determined that the proposed use and development is consistent and compatible with the goals and objectives of the City of Murphy and is in the best interest of the health, safety, morals and general welfare of the City of Murphy, and, accordingly, the City Council of the City of Murphy is of the opinion and finds that said zoning change is in the public interest and should be granted and that the Comprehensive Zoning Ordinance should be amended accordingly as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS:

Section 1. That all of the above recitals are found to be true and correct and are incorporated into the body of this ordinance as if fully set forth herein.

Section 2. That the Comprehensive Zoning Ordinance and Map of the City of Murphy, Texas, be, and the same are hereby amended so as to change the zoning (designation) from

Single Family Patio Home (SF-PH) to PD (Planned Development) District for Single Family Residential - Patio Home and Townhome uses with a concept plan and additional development standards for the property, being an approximately 6.51 acre tract of land located at the southwest corner of Betsy Road and McCreary Road in the City of Murphy, Collin County, Texas, and more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference.

Section 3. That the Development Conditions and Standards for this planned development district are attached hereto as **Exhibit B** and incorporated herein by reference, and the same are hereby approved by the City Council for said planned development district as required by Section 86-603, of the City of Murphy, Texas, Code of Ordinances.

Section 4. That the concept plan for this planned development district is attached hereto as **Exhibit C** and incorporated herein by reference and approved for said planned development district as required by Section 86-604, of the City of Murphy, Texas, Code of Ordinances.

Section 5. That Chapter 86 of the City of Murphy Code of Ordinances, as amended, shall be and remain in full force and effect save and except as amended by this ordinance, and that said property shall in all other respects be subject to all applicable regulations of the City of Murphy.

Section 6. Cumulative/Repealer Clause. This ordinance shall be cumulative of all provisions of state or federal law and all ordinances of the City of Murphy, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such other ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict.

Section 7. Severability Clause. If any word, section, article, phrase, paragraph, sentence, clause or portion of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect for any reason, the validity of the remaining portions of this ordinance or the Comprehensive Zoning Ordinance, Chapter 86 of the City of Murphy Code of Ordinances, and the remaining portions shall remain in full force and effect.

Section 8. Penalty Clause. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, in the municipal court of the City of Murphy, Texas, shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

Section 9. Effective Date. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and City Charter in such cases provide.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this 15th day of September, 2015.

Eric Barna, Mayor
City of Murphy

ATTEST:

Susie Quinn, City Secretary

APPROVED AS TO FORM:

Wm. Andrew Messer, City Attorney

Exhibit A

Legal Description

Property is located at the SWC of Betsy Road and McCreary Road, Murphy, Texas.
C.A. McMillan Survey, Abstract No. 586

EXHIBIT B
Planned Development Requirements
Murphy Meadows
Murphy, Texas

1.0 PLANNED DEVELOPMENT DISTRICT- SINGLE FAMILY RESIDENTIAL – PATIO HOME AND TOWNHOME

1.1 General Description: This Planned Development District (PD) is intended to accommodate a medium density single family residential use. Development standards for this district are outlined within this text. This district has a base zoning of SF-PH.

1.2 Statement of Purpose: The purpose of this PD is to establish a Concept Plan and specific conditions for the development of the property known as Murphy Meadows. The intent of this PD is to achieve a quality residential community while providing a variety of lot sizes, dwelling unit sizes and additional open space amenities.

1.3 Statement of Effect: This PD shall not affect any regulation found in the City of Murphy Comprehensive Zoning Ordinance, as amended, except as otherwise specified herein.

1.4 Development Plans: Development shall be in accord with the concept plan and exhibits as attached. However, in the event of conflict between the concept plan and the written conditions, the written conditions shall control. The concept plan shall also serve as the land use plan.

1.5 Development Regulations:

A. Minimum Standards for Lot Size:

1. Lot Type "A": Patio Homes - Detached

Minimum Lot Size	5,500 square Ft.
Minimum Floor Area	1800 square ft.
Minimum Lot Width	50'
Minimum Lot Depth	110'
Minimum Front Yard Setback	15' ¹
Minimum Side Yard Setback (interior)	5'
Minimum Side Yard (Adjacent to Street)	10'
Minimum Rear Yard Setback	10'
Maximum Building Height	35'
Maximum Lot Coverage	75%
Minimum Masonry Requirement	80% ²
Garage Orientation	Front Entry or J-Swing
Minimum Roof Pitch	8:12 (4:12 on Porch Roofs)
Minimum Driveway Distance (from Property Line)	20'

Notes:

^{1:} Front porch may encroach to within 10-feet of the front property line

^{2:} Brick, Stone, Cultured Stone, 3-Part Stucco

2. Lot Type "B": Townhomes - Attached

Minimum Lot Size	2,700 square feet
Minimum Floor Area	1,400 square feet
Minimum Lot Width	25'
Minimum Lot Depth	108'
Minimum Front Yard Setback	15'
Minimum Side Yard Setback (interior)	5'
Minimum Side Yard (Adjacent to Street)	10'
Minimum Rear Yard Setback	10'
Maximum Building Height	35'
Maximum Lot Coverage	75%
Minimum Masonry Requirement	100%
Garage Orientation	Front Entry
Minimum Roof Pitch	8:12 (4:12 on Porch Roofs)
Minimum Driveway Distance (from Property Line)	20'
Maximum Connected Units	8 units or 200'

C. Exterior Construction Standards: Current City of Murphy standards for SF-9 residential zoning.

D. Landscape Requirements:

1. Minimum Tree Requirements: Current City of Murphy Standards (Sec 28-155).
2. City of Murphy minimum landscape standard, as specified in (Sec 28-155).

E. Maximum Height: 35' or 2.5 Stories

2.0 PLANNED DEVELOPMENT, GENERAL CONDITIONS:

2.1 Procedure to be followed throughout the development of the Planned Development District:

- A. Conceptual Plan:** A conceptual plan is hereby attached made part of the approval for this Planned Development District. This plan indicated as Exhibit "C" is drawn to scale and illustrates: (1) land use; (2) proposed street layouts; (3) general layout of the development; and (4) other features which geographically explains the standards and conditions set forth in this Exhibit "B" and the proposed development.

2.2 Development Schedule: This ordinance, at time of City Council approval, shall be accompanied by a development schedule, indicating the approximate time in which construction is to begin and the approximate time frame of completion. The development schedule, if approved by the Murphy City Council, shall be generally adhered to by the owner, developer and/or their successors in interest; unless amended by approval of the Murphy City Council.

2.3 Landscaped Open Space: Open space shall be provided as indicated on the concept plan and maintained by the Murphy Manors Homeowner's Association.

2.4 Screening: A Six Foot (6') Masonry Wall/Entry Monument shall be constructed along the northern Property Boundary Line, West of "Street A". The Perimeter to the North along Betsy Lane, East along McCreary Road, and South along McMillan will have a Six Foot (6') tubular steel fencing and masonry columns. A landscape buffer including trees, shrubbery and grass (with an operating sprinkler system maintained by the Murphy Meadows HOA) will minimize any visual impact of the Property.

2.5 Sidewalks: Sidewalks along Betsy Lane and McCreary Road shall conform to the Parks Master Plan or as approved by City Council.

2.6 Fences:

- A. Unless otherwise approved in writing by the ACC, all wood fencing shall: (i) be constructed with galvanized steel posts; (ii) have a height that shall not exceed six (6) feet; (iii) be constructed with spruce slats which are at a minimum 1/2" thick and measure between three and one-half (3½) inches and eight (8) inches wide which are installed vertically only; (iv) be constructed with an even flat top.
- B. All fencing must be behind the front yard building set back line.
- C. All fences require permits from the City of Murphy.
- D. For lots that abut the western Property line, more specifically Lots 10 through 23 of Block "C", the Builder(s) shall be responsible for the removal of the existing six foot (6') privacy fence and installation of a new eight foot (8') privacy fence set forth herein pending approval from the property owners adjacent to the western Property line. Subject to receipt of each individual property owner's consent to replace the existing fencing, the Builder(s) shall replace the existing fence line on the western Property line before a Certificate of Occupancy is issued for Lots 10 through 23 of Block "C". If an adjacent owner does not provide their approval for said fence replacement, the provisions of this paragraph shall not be required.

3.0 Homeowner' Association: A Homeowners Association duly incorporated in the State of Texas shall be incorporated and each lot/homeowner shall be a mandatory member. This

association shall be established so as to ensure the proper maintenance of all common areas, either public or private, as desired, to be maintained by the association. The bylaws of this association shall establish a system of payment of dues, a system of enforcement of its rules and regulations; a clear and distinct definition of the responsibility of each member, and such other provisions as are reasonably deemed appropriate to secure a sound and stable association. The Bylaws shall be submitted to the Director of Planning for review and approval prior to construction.

CONCEPT PLAN



Exhibit B

Murphy Meadows Patio Home rendering



Exhibit C

Murphy Meadows Townhome rendering



Exhibit D

Proposed eastern
border perimeter
fencing

Agenda Item 7.D.



Exhibit E

Proposed Patio Home site pad configuration



SCALE: 1" = 20'



Exhibit F

Proposed Betsy Road subdivision entrance rendering

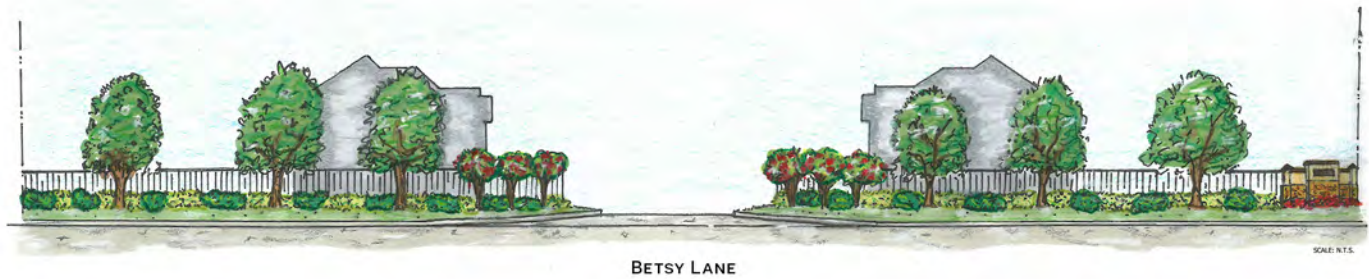
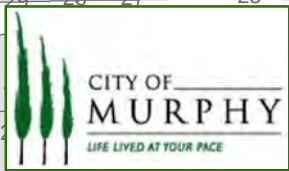


Exhibit G

Property Map with surrounding
uses identified



The Gables at
Northhill

Future
development
/ zoned NS

The Ranch

Proposed
Murphy
Meadows

Maxwell
Creek North

WalMart
Neighborhood
Market
WYLIE, TX

Creekside
South
Apartments
WYLIE, TX

Southfork
Mobile
Home Park
WYLIE, TX

Southfork
Mobile
Home Park
WYLIE, TX

Southfork
Mobile
Home Park
WYLIE, TX



0 150 300 600 Feet

Exhibit H

Public Notice Reply Forms
received at time of packet

Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



This letter is regarding the request for an approval of a zoning change from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential-Patio Home & Townhome with a concept plan for approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road.

X I am **IN FAVOR** of the request to a zoning change from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential-Patio Home & Townhome with a concept plan for approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road.

 I am **OPPOSED** to the request to a zoning change from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential-Patio Home & Townhome with a concept plan for approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road.

This item will be heard at the Planning & Zoning Commission on Monday, August 24, 2015 at 6:00 p.m. and by City Council on Tuesday, September 1, at 6:00 p.m. at Murphy City Hall, in the City Council Chambers at 206 N. Murphy Road, Murphy, Texas. Please provide your written comments below regarding the requested change. If additional space is required, you may continue writing on a separate sheet, one-sided for printing purposes.

We spent a huge amount of time researching for pros and cons regarding the vacant property behind our backyard. We spoke with our HOA board member Larry Truesdale, Cole Franklin and Noah Flabiano of Skordurg Company of our opinions. At the end, we felt at ease that Windsor Homes will provide with a high quality 8' fence with metal posts & concrete. We preferred to see single residential/patio homes instead of commercial.

By signing this letter, I declare I am the owner or authorized agent of the property at the address written below.

Evelyn (AKA Kelly) & Gary Raney Jr.
Name (Please Print)

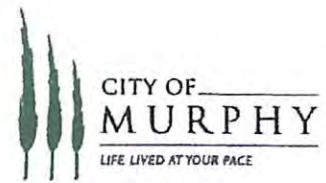
Evelyn Raney
Signature

1012 Chesterfield Drive
Address

September 1, 2015
Date

Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



This letter is regarding the request for an approval of a zoning change from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential-Patio Home & Townhome with a concept plan for approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road.

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CAROLINE GAGNON-HARTMAN

Name (Please Print)

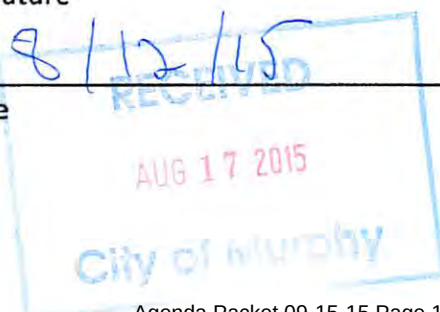
Signature

424 CREEKSIDE DR

Address

Date

MURPHY, TX



Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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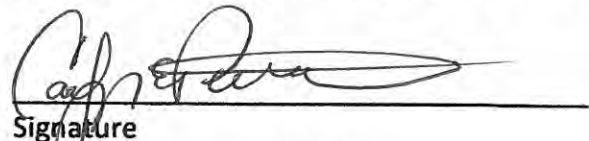
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There is No good reason for this change. There is No benefit. It's bad enough that Walmart and apartments have already been built in our residential neighborhood without regards to the surrounding homes.

By signing this letter, I declare I am the owner or authorized agent of the property at the address written below.

Carolyn E Patrick
Name (Please Print)


Signature

925 Morningside Trail
Address

8-12-15
Date

Reply Form

Planning & Zoning Commission/City Council
 206 North Murphy Road
 Murphy, Texas 75094



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what is the benefit of zoning change to owner and city of Murphy?

why is this zoning change being requested?

Who is asking/requesting the zoning change?

Can someone provide the difference between current zoning code to the one being changed to?

By signing this letter, I declare I am the owner or authorized agent of the property at the address written below.

Gandhi Nitin

Name (Please Print)

Gandhi N.M.

Signature

312 CAVE RIVER DR. MURPHY TX
 Address 75094

8-12-2015
 Date

Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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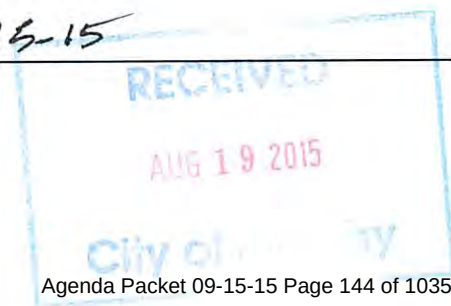
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JAMES D. WINTERS
Name (Please Print)

James D. Winters
Signature

1013 CHESTERFIELD
Address

8-15-15
Date



Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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The police department has said that one reason crime is low in
Murphy is because we have no hotels or apartments. Over time,
condominiums tend to become rental units, thus they become
no different than apartments.

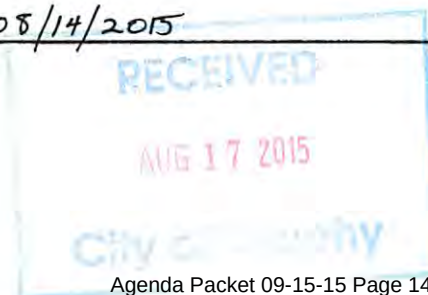
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John C. Ownby
Name (Please Print)

John C Ownby
Signature

708 Morningside Trail
Address Murphy, Tx 75094

08/14/2015
Date



Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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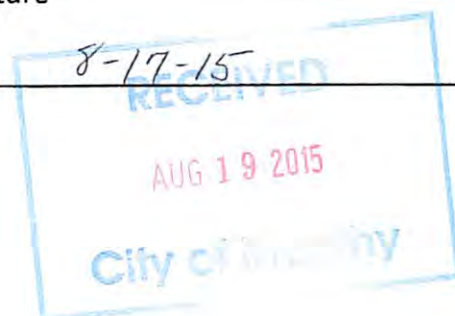
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JOHN UPHUES
Name (Please Print)

609 FALL WHEAT Dr
Address

[Signature]
Signature

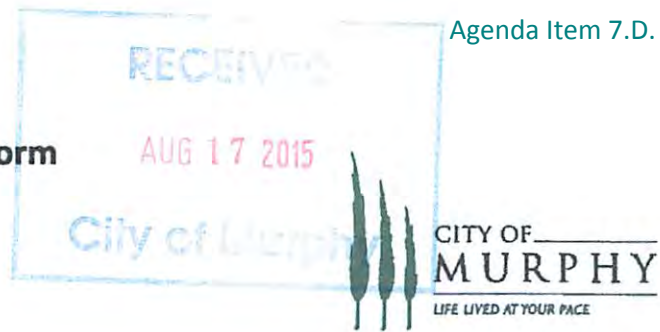
8-17-15
Date



Reply Form

AUG 17 2015

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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Changing the zoning would mean more families in that location. Our schools are already over crowded with students. Some have portables already on their campuses. Also, the homes would be closer together and I'm against that. There are already apartments across the street. This is not a good idea.

By signing this letter, I declare I am the owner or authorized agent of the property at the address written below.

Stephanie VanSaders
Name (Please Print)

Stephanie VanSaders
Signature

613 Fall Wheat Dr
Address

8/12/15
Date

Timothy VanSaders

[Signature]

Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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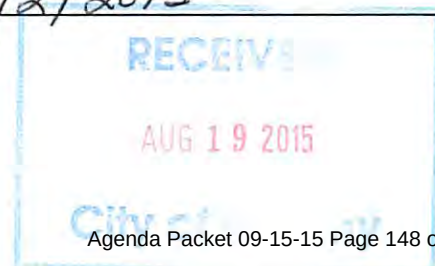
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Tommy Duong
Name (Please Print)

924 CHESTNUT CT
Address


Signature

8/12/2015
Date



Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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Wylie already made zoning changes to allow multi-family dwellings on the South-East

corner of the intersection. Murphy doesn't need to add to the real potential lowering of

property values in Maxwell Creek and the Ranch.

By signing this letter, I declare I am the owner or authorized agent of the property at the address written below.

Eddie Hartman

Name (Please Print)

424 Creekside Drive, Murphy

Address

Signature

Date

Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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The developer should build more affordable, smaller single family homes - not townhomes.

This development would present excessive overcrowding of an already extensively crowded Tibbals Elementary. In addition, it would bring congestion to Betsy and McCreary Rd. where we already are in need of additional traffic lights due to near misses and accidents.

Also, it would bring the property value down and bring more renters. Stick to Murphy's lot size requirement and single family homes. That is the reason why we moved here initially.

I could have moved to Wylie for trailer parks and Plano for townhomes. I choose Murphy because they didn't have either.

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Robert Williams
Name (Please Print)

Robert G. Williams

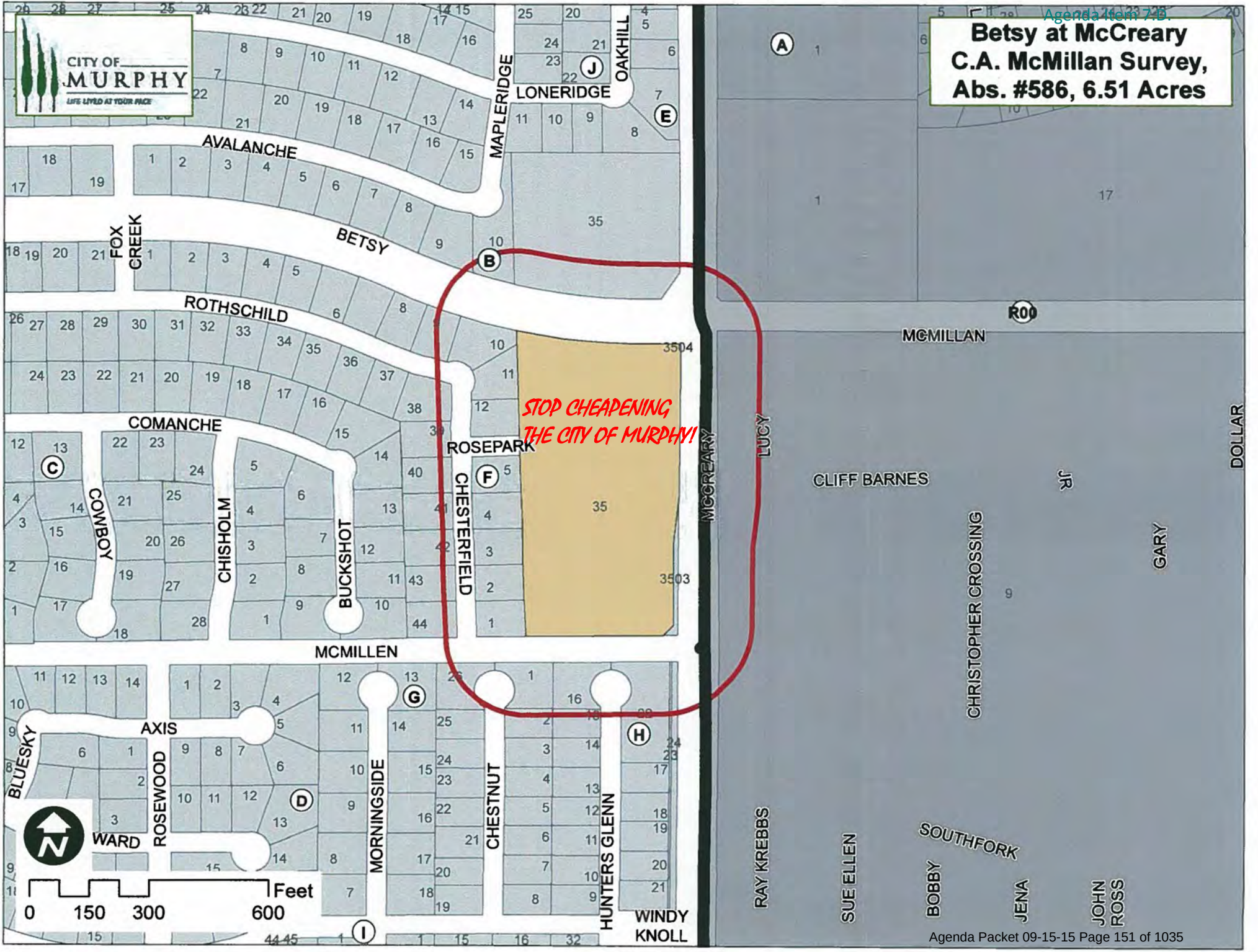
Signature

905 Rosewood Dr. Murphy, TX 75094
Address

08/18/2015
Date



Betsy at McCreary
C.A. McMillan Survey,
Abs. #586, 6.51 Acres



Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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Also, it would bring the property value down and bring more renters. Stick to Murphy's lot size requirement and single family homes. That is the reason why we moved here initially.

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Christine Williams

Christine Williams

Name (Please Print)

Signature

905 Rosewood Dr. Murphy, TX 75094

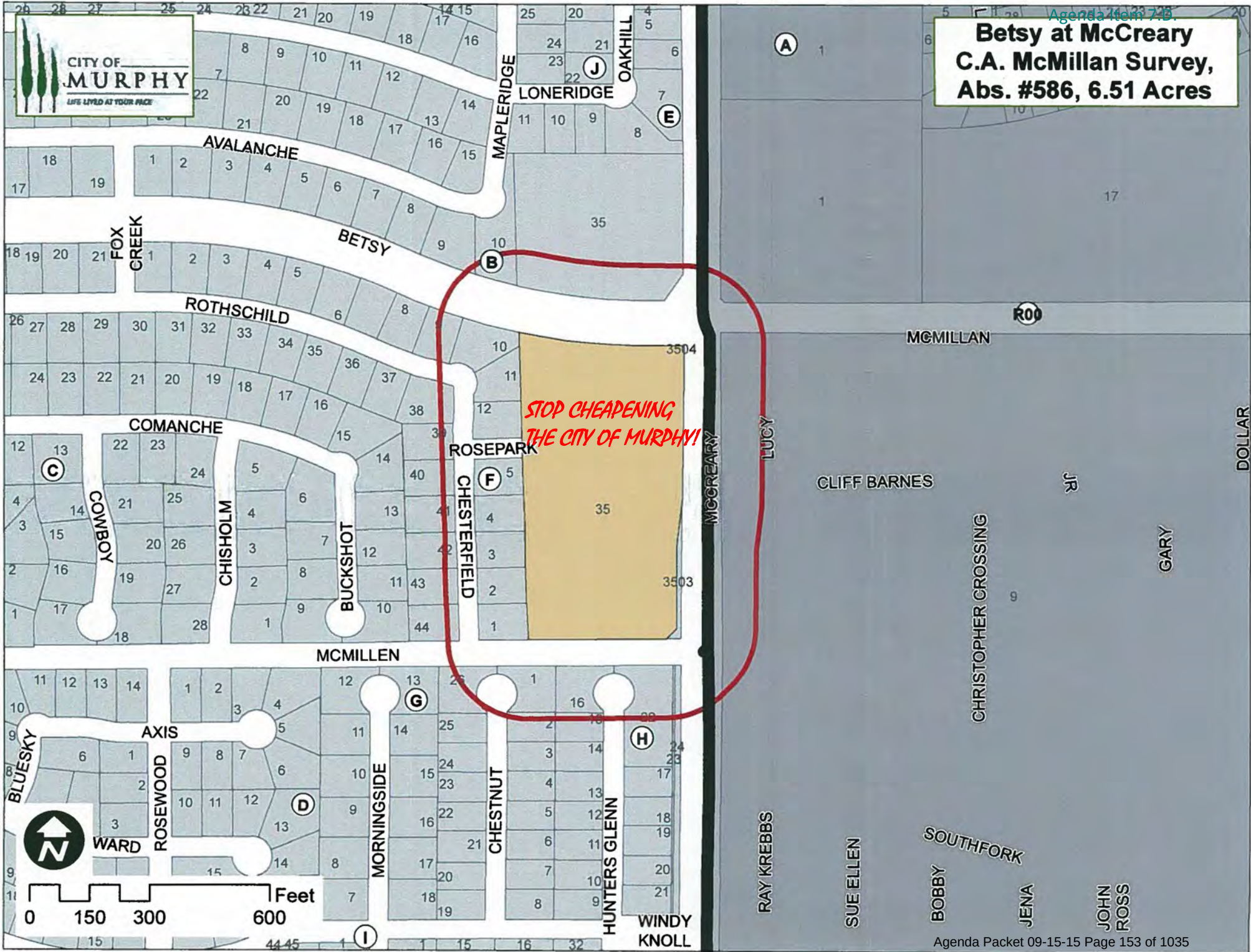
08/18/2015

Address

Date



Betsy at McCreary
C.A. McMillan Survey,
Abs. #586, 6.51 Acres



I can't make the meeting tonight.

Both my husband and I vote

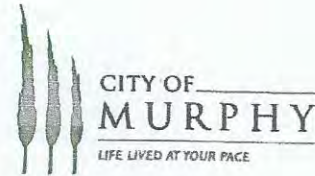
NO to both patio home and townhouses. We move to Murphy from Dallas because we enjoy what use to be farm living in the city.

Thank you,
Bert and Shelly
Maxwell Creek
Royal Oak

sl

Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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Chris Martin
Name (Please Print)

[Signature]
Signature

402 Windward Drive
Address

8/25/15
Date

Murphy TX 75094

Lori - As a homeowner in Maxwell Creek that will be directly affected by the proposed zoning change to townhomes at the corner of McCreary and McMillen - I am opposed to the rezoning change. The zoning should be kept as patio homes. If the zoning changing is allowed, would the townhomes be owned by the residents or rented out like apartments?

Rgs,
Jodi Wooten
Concerned Homeowner

Ms. Knight,

Many residents of Murphy chose Murphy specifically because there are no apartments, town homes, etc. We love the large lots and small town feel, and we do not want to disrupt that. Please do not change the zoning to allow town homes. The citizens of Murphy do not want houses crammed together or town homes lowering property values. Please keep Murphy a small, family community!!

I should add that issues like this make residents feel like cities are getting greedy. We are clearly running out of land in Murphy. I understand that the city council can't demand which businesses/restaurants/etc come to Murphy. However, they can definitely stop the ones we don't want, and now would be an ideal time to do so. Please make the last construction in Murphy something that the residents can get excited about, not something they will dread. Thank you!!

Thank you!
Kate Anderson

Hi Ms. Knight,

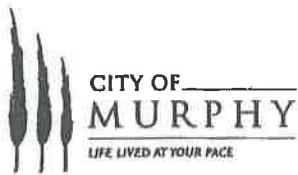
My name is Marnie Murray, we live at 421 Windy Knoll Drive in Maxwell Creek. This new proposal for multi-family units is disappointing. I'm sad that the city is even considering it. We moved to Murphy because of the small town feel and how close we were to the city and country at the same time. I feel very strongly against this proposal and are considering leaving our home and moving should it go through. We were under the impression the City of Murphy wanted to keep a quaint family environment and to me, it's starting to feel like we are back in Plano. Concrete and retail everywhere. Our vote is a strong NO.

Thank you for your consideration!

Kind Regards,
Marnie Murray

Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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Matt Anderson
Name (Please Print)

MA Anderson
Signature

511 Windward Dr - Murphy
Address

8-25-15
Date

Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



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I don't believe our community will benefit in any way with this zoning change. In fact, I believe the zoning change may disrupt our lifestyle and bring UNKNOWN elements to the quiet, peaceful neighborhood we enjoy.

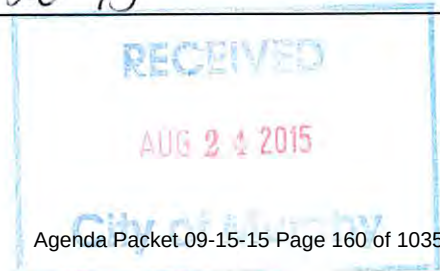
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Steve Berry
Name (Please Print)

633 Rothschild Ln.
Address

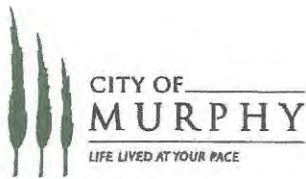
Steve Berry
Signature

8-20-15
Date



Reply Form

Planning & Zoning Commission/City Council
206 North Murphy Road
Murphy, Texas 75094



This letter is regarding the request for an approval of a zoning change from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential-Patio Home & Townhome with a concept plan for approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road.

✓ I am **IN FAVOR** of the request to a zoning change from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential-Patio Home & Townhome with a concept plan for approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road.

 I am **OPPOSED** to the request to a zoning change from SF-PH (Single Family Residential Patio Home) to a Planned Development District: Single Family Residential-Patio Home & Townhome with a concept plan for approximately 6.51 acres on property located at the southwest corner of Betsy Road and McCreary Road.

This item will be heard at the **Planning & Zoning Commission on Monday, August 24, 2015 at 6:00 p.m.** and by **City Council on Tuesday, September 1, at 6:00 p.m.** at Murphy City Hall, in the City Council Chambers at 206 N. Murphy Road, Murphy, Texas. Please provide your written comments below regarding the requested change. If additional space is required, you may continue writing on a separate sheet, one-sided for printing purposes.

By signing this letter, I declare I am the owner or authorized agent of the property at the address written below.

Tammy Hall

Name (Please Print)

Tammy Hall

Signature

1184 Oak Hill Ln, Murphy TX

Address

8-24-15

Date

Hi, my name is Nicholas White. I live 425 Waters Edge Way. After graduating college (2006) my wife and I chose to move to Murphy, from Boulder, CO (born and raised in Richardson, TX). We chose Murphy because of the strict enforcement of the plan in regards to .25 acre lot minimum, single family living, quality of housing, etc. In 2012 we chose to sell our home in The Ranch and have one built in Maxwell Creek. We debated McKinney, Allen, Plano, and Richardson. We still chose Murphy again because of the city lifestyle standards.

The Cole Franklin proposal, if approved will disrupt all of what Murphy, TX stands for. This is only a developer who is trying to maximize their profits per square foot of space. This will be just the beginning of more of these requests to come: as well as, apartments and town homes in other parts of town. Dr Horton will use this against the city in order to build homes on lots in the Ranch that are under .25 acre. Next will be apartments. I grew up in Richardson, TX one street over from "high end" town homes. The turnover rate was and still is large, not body took care of their properties, and it lowered my families property value due to them. lets not bring this lifestyle to Murphy, TX.

Any time i tell somebody that i live in Murphy, their response is, "oh, its really nice there... and no apartment / town home traffic (foot traffic, and i am not talking about joggers and soccer moms) to deal with."

Developers will tell the city what you want to hear, and then do what they want after the zoning is changed.

Thanks for your time,

Nicholas White
425 Water Edge Way
Murphy, TX
214-683-9893

Exhibit I

SF-PH, Single Family
Residential - Patio Home District
(for reference)

DIVISION 8. - SF-PH, SINGLE-FAMILY RESIDENTIAL-PATIO HOME DISTRICT (ZERO-LOT/TRACT-LINE HOMES)

Sec. 86-371. - General purpose and description.

The SF-PH, single-family residential-patio home, district is designed to provide for development of primarily detached single-family residences on compact lot/tracts having one side yard reduced to zero feet ("zero-lot/tract-line"), and having not less than 5,000 square feet. Patio home developments shall be arranged in a clustered lot/tract pattern with a common usable open space system that is an integral part of the development. Areas zoned for the SF-PH district shall have, or shall make provision for, city water and sewer services. Areas zoned for the SF-PH district shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage nonlocal traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts.

(Ord. No. 04-05-610, § 21.1, 5-17-2004)

Sec. 86-372. - Permitted uses.

Those uses listed for the SF-PH district in article VI of this chapter as "P" or "S" are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article V of this chapter.

(Ord. No. 04-05-610, § 21.2, 5-17-2004)

Sec. 86-373. - Height regulations.

Maximum height regulations for the SF-PH district shall be as follows:

- (1) Two and one-half stories, or 35 feet for the main building/house.
- (2) One story, or 16 feet for other accessory buildings, including detached garage, garden shed, gazebo, etc.
- (3) Other requirements (see chapter 28, article V).

(Ord. No. 04-05-610, § 21.3, 5-17-2004; Ord. No. 05-03-645, § 6, 3-4-2005)

Sec. 86-374. - Area regulations.

(a) *Size of lot/tracts.* The size of lots/tracts in the SF-PH district shall be as follows:

- (1) Minimum lot/tract area: 5,000 square feet; also, the minimum average lot/tract area shall be 7,000 square feet in order to provide diversity in lot/tract sizes within each SF-PH neighborhood.
- (2) Maximum project size: The maximum size of a patio home development shall be eight acres.
- (3) Minimum lot/tract width: 50 feet.
- (4) Minimum lot/tract depth: 100 feet.

(b) *Size of yards.* The size of yards in the SF-PH district shall be as follows:

- (1) Minimum front yard: 25 feet.
- (2) Minimum side yard: One side yard reduced to zero feet; other side yard a minimum of ten feet required; 15 feet from a street right-of-way line for a corner lot/tract on a residential or collector street; 20 feet for a corner lot/tract on an arterial street; 25 feet from a street right-of-way line for a key corner lot/tract, no front-entry garages permitted.
- (3) Minimum rear yard: 20 feet for the main building; 24 feet for rear garage entry.

(c) *Maximum lot/tract coverage* The maximum lot/tract coverage in the SF-PH district shall be 50 percent by main buildings and accessory buildings.

(d) *Parking regulations.* Parking regulations for the SF-PH district shall be as follows:

- (1) Single-family dwelling unit: A minimum of two enclosed parking spaces behind the front building line on the same lot/tract as the main structure, plus two additional parking spaces on a paved driveway (all concrete or a similar paved surface such as turf pavers, brick pavers).
- (2) Visitor parking: One-half parking space per dwelling unit (off-street) which is located within 600 feet of the dwelling unit.
- (3) Driveways and parking areas: All driveways and parking areas shall be concrete or a similar paved surface such as turf pavers, brick pavers.

Agenda Item 7.D.

- (4) Other: See article VII, division 2 of this chapter regarding off-street parking and loading requirements.
- (e) *Minimum floor area per dwelling unit.* The minimum floor area per dwelling unit in the SF-PH district shall be 1,800 square feet.
- (f) *Minimum exterior construction standards.* See chapter 28, article V for exterior construction standards in the SF-PH district.

(Ord. No. 04-05-610, § 21.4, 5-17-2004)

Sec. 86-375. - Special requirements.

- (a) *Generally.* Patio home developments shall be developed as zero-lot/tract-line homes. One side yard shall be reduced to zero feet, while the other side yard shall be a minimum of ten feet, 15 feet for a corner lot/tract on the residential or collector street side, or 20 feet for a corner lot/tract on an arterial street; a key corner lot/tract shall observe the front yard setback). A minimum six-foot wide maintenance easement shall be placed on the adjacent lot/tract (on the other side of the zero-lot/tract-line) to enable the property owner to maintain that portion of his house which is on the zero-lot/tract-line. Side yards and maintenance easements shall be shown on the subdivision plat. A minimum separation between patio homes of ten feet shall be provided. Roof overhangs will be allowed to project into the maintenance easement a maximum of 24 inches.
- (b) *Maintenance requirements for common areas.* A property owners' association is required for continued maintenance of common land and facilities (see section 70-103 for property owners'/homeowners' association requirements).
- (c) *Usable open space requirements.* Except as provided below, any patio home subdivision shall provide usable open space which equals or exceeds ten percent of the gross platted area, excluding rights-of-way for collector and larger sized streets. Usable open space shall not be required for a patio home development if it contains 20 or fewer lot/tracts, and if the property contiguous to the subdivision is either developed for uses other than patio homes or is restricted by zoning to not permit patio home development. Properties that are separated by thoroughfares larger than a collector street and/or by drainage/utility easements in excess of 60 feet in width shall not be considered as contiguous.
- (d) *Specific criteria for usable open space.* Areas provided as usable open space in the SF-PH district shall meet the following criteria:
 - (1) All residential lot/tracts must be located within 600 feet of a usable open space area as measured along a street. The planning and zoning commission may recommend, and city council may allow, this distance to be increased to up to 1,200 feet if the shape of the subdivision is irregular or if existing trees or other natural features on the site can be preserved by increasing the distance.
 - (2) Individual usable open space areas shall be at least 20,000 square feet in size. Usable open space must be a minimum of 50 feet wide, and must have no slope greater than ten percent. At the time of site plan and subdivision plat approval, the planning and zoning commission may recommend, and the city council may allow, full or partial credit for open areas that exceed the ten percent maximum slope if it is determined that such areas are environmentally or aesthetically significant and that their existence enhances the development and the surrounding area.
 - (3) Pools, tennis courts, walkways, patios and similar outdoor amenities may be located within areas designated as usable open space. Areas occupied by enclosed buildings (except for gazebos and pavilions), driveways, parking lot/tracts, overhead electrical transmission lines, drainage, channels and antennas may not be included in calculating useable open space.
 - (4) Within usable open space areas, there shall be at least one large shade tree for every 1,000 square feet of space. New trees planted to meet this requirement shall be a minimum three-inch caliper, and at least 25 percent of the trees shall be nondeciduous (for qualifying tree species, see section 86-741 for the city's approved plant list).
 - (5) A usable open space area must have street frontage on at least 33 percent of the area's perimeter to ensure that the area is accessible to residents of the subdivision.
 - (6) Usable open space areas must be easily viewed from adjacent streets and homes. Side or rear yard fences along common open space areas shall be of open, wrought iron design, and shall not exceed four feet in height adjacent to the open space and for a distance of ten feet perpendicular or radial to the open space area.
- (e) *Credit for off-site open space.* At the time of site plan and subdivision plat approval, the planning and zoning commission may recommend, and the city council may allow, up to one-third of the required open space to be credited for off-site dedicated open space (e.g., parkland) that meets the development's needs in terms of adjacency,

Agenda Item 7.D.

accessibility, usability, and design integration. The granting of any off-site credit for open space is a discretionary power of the city council. The guidelines below may assist in considering if credit is appropriate:

- (1) *Adjacency.* Is at least 15 percent of the patio home development's boundary adjacent to park land?
 - (2) *Accessibility.* Are there defined pedestrian connections between the development and the park land?
 - (3) *Usability.* Is the park land immediately adjacent to the development suitable for use and accessible by residents?
 - (4) *Design integration.* Does the design of the development provide a significant visual and pedestrian connection to the park or other open space land?
- (f) *Landscaped areas.* Additional common open space and landscaped areas that do not qualify as usable open space may be provided in the SF-PH district, but shall not be counted toward the usable open space requirement.
- (g) *Construction standards.* Single-family lot/tracts and detached dwellings constructed in the SF-PH district shall conform to the standards as set forth in the SF-9 zoning district.
- (h) *Enclosure or conversion of garage space.* The elimination of a garage space by enclosing or converting any portion of the garage space with a stationary building wall shall be prohibited in the SF-PH district unless another garage of the same size is built on the lot/tract within the proper setbacks, not exceeding the maximum lot/tract coverage, etc.
- (i) *Use of recreational vehicles, travel trailers or motor homes.* Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes in the SF-PH district.
- (j) *Fencing.* Aboveground electrical fencing (does not include underground "virtual fencing," which is allowed), wire mesh (such as hog wire, chicken wire) and barbed wire are prohibited in the SF-PH district as perimeter fencing except for containment of farm animals on parcels of five or more acres.
- (k) *Open storage.* Open storage is prohibited in the SF-PH district (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).
- (l) *Garage setback.* Single-family homes with side-entry garages in the SF-PH district where lot/tract frontage is only to one street (not a corner lot/tract) shall have a minimum of 24 feet from the door face of the garage or carport to the side property line with a paved six-foot hammerhead turnaround provided for on-site maneuvering of vehicles. The minimum setback from any garage door to a street or alley right-of-way line shall also be 24 feet.
- (m) *Swimming pools.* For swimming pools in the SF-PH district see chapter 18, article VI.
- (n) *Site plan approval for nonresidential uses.* Site plan approval shall be required for any authorized nonresidential use in the SF-PH district. Any nonresidential land use which may be permitted in the SF-PH district shall conform to the NS neighborhood service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.
- (o) *Other regulations.* Other regulations for the SF-PH district shall be established by articles VI and VII of this chapter.

(Ord. No. 04-05-610, § 21.5, 5-17-2004)

Secs. 86-376—86-390. - Reserved.

Exhibit J

Section 28-155, General Landscape Standards (referenced in PD

Sec. 28-155. - General standards.

The following criteria and standards shall apply to landscape materials and installation:

- (a) All nonpaved surfaces shall be completely covered with living plant material. Landscaping materials such as wood chips and gravel may be used under trees, shrubs and other plants, but shall not comprise a significant portion of the total pervious surface area.
- (b) Plant materials shall conform to the standards of the approved plant list for the city (see section 86-741 for the approved plant list referenced in that section) and the current edition of the "American Standard for Nursery Stock" (as amended), published by the American Association of Nurserymen. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects.
- (c) Trees shall have an average crown spread of greater than 15 feet at maturity. Trees having a lesser average mature crown of 15 feet may be substituted by grouping the same so as to create the equivalent of 15 feet of crown spread. Large trees shall be a minimum of three inches in caliper (measured four feet above the ground) and seven feet in height at time of planting. Small ornamental trees shall be a minimum of one and one-half inches in caliper and five feet in height at time of planting. All new trees shall be provided with a permeable surface under the dripline a minimum of five feet by five feet diameter.
- (d) Shrubs not of a dwarf variety shall be a minimum of two feet in height when measured immediately after planting. Hedges, where installed for screening purposes, shall be planted and maintained so as to form a continuous 75 percent visual screen which will be at least six feet high within three years after time of planting, except for parking lot/tract/headlight screens, which shall form a continuous, solid visual screen three feet high within two years after planting.
- (e) Vines not intended as ground cover shall be a minimum of two feet in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet landscape screening requirements as set forth.
- (f) Grass areas shall be sodded, plugged, sprigged, hydro-mulched and/or seeded, except that solid sod shall be used in swales, earthen berms or other areas subject to erosion.
- (g) Ground covers used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonably completed coverage within one year of planting.
- (h) All landscaped areas shall be equipped with an automatic, underground irrigation system with freeze and moisture sensors to prevent watering at inappropriate times. Landscaped areas having less than ten square feet in area may be irrigated by some other inconspicuous method. If appropriate xeriscape planting techniques are utilized, the city council may waive the requirement for an underground irrigation system at the time of site plan approval. However, the landscaping shall be required to be maintained in a healthy, living and growing condition, and any irrigation devices shall not be visible from public streets or walkways.
- (i) Earthen berms shall have side slopes not to exceed 33.3 percent (three feet of horizontal distance for each one foot of vertical height). All berms shall contain necessary drainage provisions as may be required by the city engineer.

(Ord. No. 09-05-797, § 2, 5-18-2009)

City Council
September 15, 2015

Issue

Consider, discuss and/or act on an update to the Southeast Study Project.

Project Update and details

On September 28, the City Council and Planning & Zoning Commission will have a joint meeting.

After detailed review and discussions of the Southeast Study schedule and progress and based on the feedback we have received from residents in the area and near the area, September 28 meeting will include the following:

- Discussion and consideration of extending the moratorium through November.
 - A Public Hearing Notice has been published appropriately prior to this meeting for the consideration of the moratorium extension.
- At this meeting both the City Council and P & Z will be briefed on the near final draft of the Planned Development and Concept Plan.
- There will also be public input opportunity

Overall Project Considerations

- This project is not 'just' a plan but rather the creation of a high level strategy and adding the implementation mechanism of a Planned Development (PD) District for the subject area.
- This PD is zoning. New development within the area would need to conform to the regulations of the PD.
- There is no impact on a home/landowner within the plan area today.
 - They would be allowed to stay and their property can continue operating as it does today.
 - If a significant expansion or renovation to the property is requested, or if the property should be demolished, the property would be required to conform to the PD standards and vision.

Updated draft Concept Plan

Based on feedback received from Planning & Zoning, City Council and residents following review of draft Concept Plans A, B and C, a consolidated Concept Plan was drafted.

Below is a summary of the edits/consolidations as shown on the updated proposed plan.

The consultants and staff are beginning work on the Planned Development District conditions and this is the base for that next step.

Updated draft Concept Plan (continued)

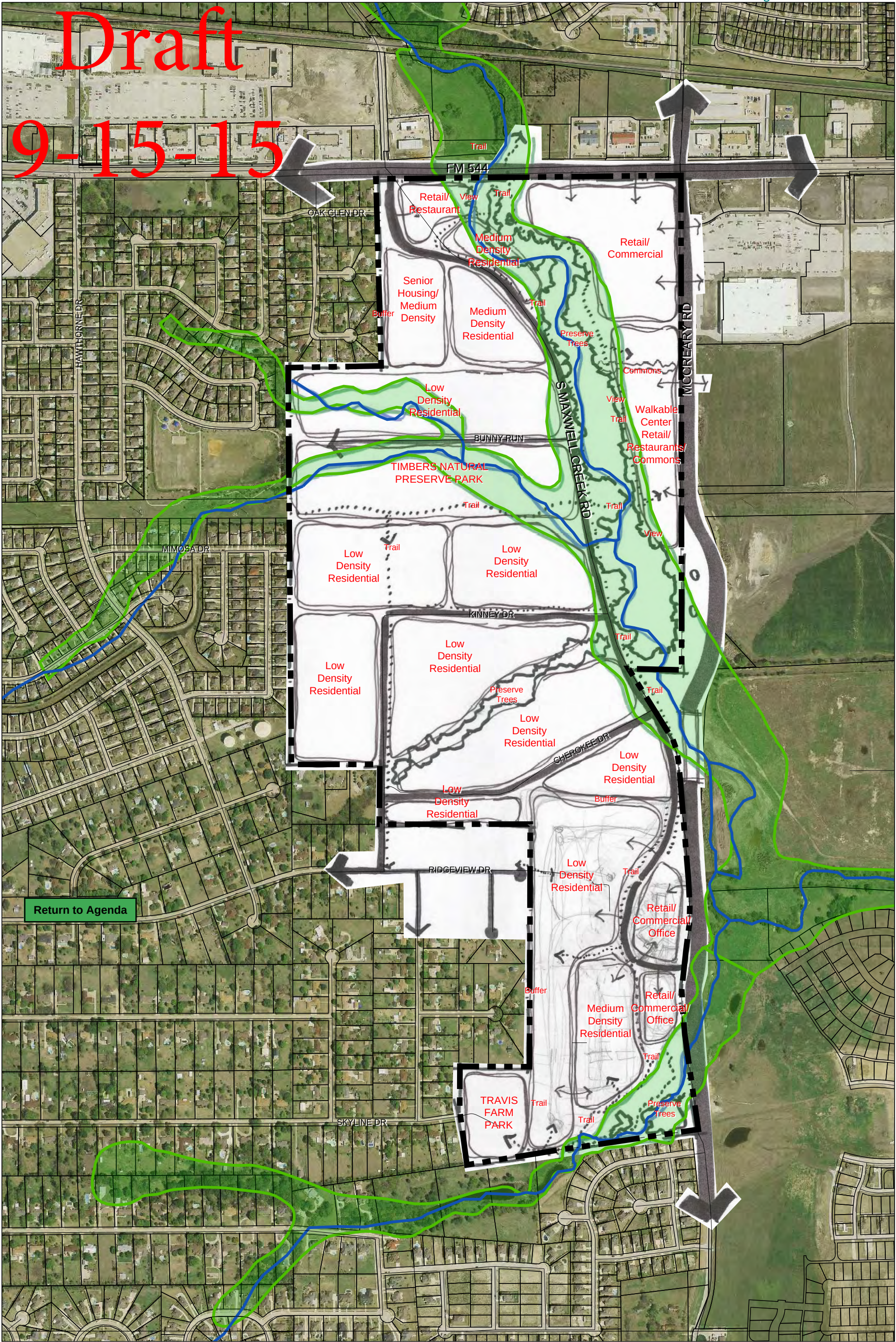
Updates to the Concept Plan draft include:

- 1) Ridgeview Drive was closed off with a cul-de-sac that could potentially be opened at some point in the distant future.
- 2) The City-owned land is shown as low density residential
- 3) Maxwell Creek Road is realigned at FM544 so that a more functional intersection is created
- 4) The Senior housing is reflected
- 5) Due to the senior housing and restaurant, retail at the corner of FM544 and Maxwell Creek, an area of medium density residential was added as it is more compatible with those activities. It is envisioned that this medium density would be single-family detached housing types such as zero lot line homes and patio homes.
- 6) The walkable center was kept from concepts B and C as there seemed to be support for this
- 7) The overall trail system was kept with additional connections provided along the western side of the study area to ensure access to Timbers Natural Preserve Park and the city-wide and regional trail system
- 8) Low Density residential was kept between Bunny Run and Cherokee. This area is the only are envisioned to be at SF-20. This would likely be the last area to redevelop.
- 9) Low density south of Cherokee would is envisioned to be similar to existing neighborhoods in Murphy.
- 10) Maxwell Creek was extended from its current end point through the lower properties, as requested by both property owners. Maxwell Creek punches through to McCreary Road.
- 11) The medium density residential, in this case townhomes/patio homes, was moved away from the existing neighborhoods and is buffered by low density residential. Retail was kept along McCreary.

Attachments

Consolidated draft Concept Plan

Updated Calendar of project dates



Murphy Southeast Area Plan Tentative Schedule		
Task	Description	Date (Completion)
Task 1	Base Map	August 7
Task 2	Site Visit	August 11
Task 3	Stakeholder Meetings	August 19
Task 4	Programming Defined Conference Call	August 21
Task 5	Draft Development Alternatives	August 24
Task 6	P&Z Update/Public Meeting	August 24
Task 7	Council Update	September 1
Joint Meeting Notice		September 11
Task 8	Concept Plan	September 14
Task 9	Council Update	September 15
Task 10	Concept Plan Staff Meeting	September 16
Task 11	Overlay District/PD Development	September 22
Task 12	Overlay District Conference Call	September 22
Task 13	Joint Planning & Zoning/City Council Meeting. Consideration of Moratorium Extension	September 28
Task 14	City Council Meeting (Final Input Session)	October 6
Task 15	Final Draft Concept Plan & PD released to City Council and P&Z	Week of October 12
Task 16	City Council Update	October 20
Task 17	P&Z Consideration/Action and Public Hearing	October 26
Task 18	City Council Discussion	November 3
Task 19	City Council Public Hearing and Action	November 17

**City Council Meeting
September 15, 2015**

Issue

Consider and/or act upon approval of an ordinance adopting a new Code of Ordinances for the City of Murphy to be effective immediately upon its adoption.

Staff Resource/Department

Susie Quinn, City Secretary
James Fisher, City Manager

Summary

The City's previous Code of Ordinances was published in 2006 through Municipal Code Corporation. Since 2006, the City has adopted six supplements to the code with the last one being February 19, 2013.

In July of 2013, the City contracted with Franklin Legal Publishing, Inc. to perform a thorough legal and editorial review of the city's ordinances and re-codify ordinances that have already been adopted. Franklin Legal Publishing has over 25 years of experience and has published over 250 codes in 5 states. The completion of the project was delayed due to a vacancy in the City Secretary position. Current staff re-initiated the project in 2014.

The new code has codified all appropriate City ordinances through June 2, 2015. The City's first supplement to the code will include all ordinances passed after June 2, 2015 through December 31, 2015. The first supplement is scheduled to be published within the second quarter of fiscal year 2015-2016 with a hard-copy supplement to be published annually thereafter. The code will also be in electronic format via a link to Franklin Legal Publishing, Inc. on the City's website. This link will be installed upon approval of the code from Council. The electronic format will be updated monthly.

The final draft has been prepared as a result of the staff comments. It should be noted that the proposed Code will include the Development Regulations, Subdivision Regulations and Zoning Regulations. The appropriate Public Hearings and required action regarding amendments to Chapter 28 – Development Standards, Chapter 70 – Subdivisions and Chapter 86 – Zoning were held May 18, 2015.

Financial Considerations

The total cost for implementing the code has been budgeted over a couple of budget cycles with the remaining balance being \$8,583 (\$6,384 due upon approval of the Code, \$1,824 when the other 9 books are received, plus \$375 for the Internet Service) to be paid from the 2014-2015 budget.

Action Requested

Motion to approve Ordinance Number 15-09-1002 adopting a new Code of Ordinances for the City of Murphy to be effective immediately upon its adoption.

Attachments

Proposed Ordinance
Copy of the Codification (without disposition tables and index)

ORDINANCE NO. 15-09-1002

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF MURPHY, TEXAS; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

WHEREAS, Chapter 53 of the Texas Local Government Code, as amended, authorizes the City of Murphy, Texas, to adopt a new code of ordinances; and

WHEREAS, publication of this ordinance is in accordance with law; and

WHEREAS, Section 53.001(c) of the Texas Local Government Code provides that the new code of ordinances is effective on its adoption.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS:

SECTION 1. The Code entitled "The Murphy City Code," published by Municipal Code Corporation, consisting of chapters 1 through 30, each inclusive, is adopted.

SECTION 2. All ordinances of a general and permanent nature enacted on or before June 2, 2015, and not included in the Code or recognized and continued in force by reference therein, are repealed. No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be effected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

SECTION 3. 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 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not greater than \$2,000.00 for violation of any rule, ordinance, code section or regulation governing fire safety, zoning, or public health and sanitation, including dumping of refuse, or not greater than \$500.00 for violation of any other ordinance, rule, code section or police regulation. Each act of violation and each day upon which any such violation shall continue or 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, civil penalties, and revocation of licenses or permits.

SECTION 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the city to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

SECTION 6. Ordinances adopted after June 2, 1015, 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 7. This Ordinance shall become effective immediately upon its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this the 15th day of September, 2015.

Eric Barna, Mayor
City of Murphy

ATTEST:

Susie Quinn, City Secretary
City of Murphy

APPROVED AS TO FORM AND LEGALITY:

Andy Messer, City Attorney
City of Murphy

**CODE OF ORDINANCES
OF THE
CITY OF MURPHY, TEXAS**

As Codified By:



**2435 20th Street
Lubbock, Texas 79411
806.797.8281
www.franklinlegal.net**

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HOME RULE CHARTER***PREAMBLE**

We, the citizens of Murphy, Texas, in order to establish a Home Rule municipal government, provide for the future progress of our City, obtain the full benefits of local self government and provide for the public welfare, hereby adopt this Home Rule Charter, in accordance with the statutes of the State of Texas; and do hereby declare the residents of the City of Murphy, in Collin County, Texas, living within the legally established boundaries of the said City, to be a political subdivision of the State of Texas, incorporated forever under the name and style of the “City of Murphy” with such powers, rights, privileges, authorities, duties and immunities, as are herein provided. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

ARTICLE I. FORM OF GOVERNMENT AND BOUNDARIES**Section 1.01. Form of Government.**

The municipal government provided by this Charter shall be the “Council-Manager form of Government.” Pursuant to its provisions, and subject only to the limitations imposed by the State Constitution, the statutes of this state, and by this Charter, all powers of the City of Murphy (hereinafter referred to as the “City,”) shall be vested in an elected council, hereinafter referred to as the “City Council” or “Council,” which shall enact local legislation, adopt budgets, determine policies, and appoint City officials as noted in this Charter, including the City Manager, who in turn, shall be held responsible to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not prescribed, then in such manner as may be prescribed by ordinance, the State Constitution, or by the statutes of the State of Texas. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Form of government, V.T.C.A., Local Government Code, sec. 26.021.

Section 1.02. The Boundaries.

The citizens of the City of Murphy, Collin County, Texas, residing within its corporate limits, as heretofore or hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate, in perpetuity, under the name of the “City of Murphy,” with such powers, privileges, rights, duties, authorities and immunities as are herein provided. The City shall maintain an official map of its boundaries in accordance with state law. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Municipal boundaries and annexation, V.T.C.A., Local Government Code, ch. 41 et seq.

Section 1.03. Extension and Reduction of Boundaries.

The boundaries of the City may be enlarged and extended by the annexation of additional territory, or reduced by the disannexation of territory, irrespective of size and configuration, by the method hereinafter set forth:

- (1) The City Council shall have the power by ordinance to fix the boundary limits of the City, to exchange area with other municipalities, and to provide for the alteration and extension of said boundary limits and the annexation of additional territory lying adjacent to the City, with or

* **Editor's note**—Printed herein is the home rule charter for the City of Murphy, Texas, adopted at an election held on February 7, 2004, and amended at an election held on November 2, 2010, as set out in exhibit B of Ord. 10-11-861, adopted November 15, 2010. Apart from minor nonsubstantive changes in style and formatting, the charter is reproduced as it appeared in the 2006 Code of Ordinances. Capitalization, punctuation and grammar have been retained. Obviously misspelled words have been corrected without notation. Material enclosed in brackets has been added for clarification. Amendments to the charter are indicated by a history note following the amended provision.

State constitution reference—Adoption or amendment of charter, Texas Constitution, art. 11, sec. 5.

State law reference—Adoption or amendment of charter, V.T.C.A., Local Government Code, sec. 9.001 et seq.

without the consent of the inhabitants of the territory annexed, in any manner provided by state law.

- (2) When any additional territory has been so annexed, same shall be a part of the City and the property situated therein shall bear taxes levied by the City; and the citizens thereof shall be entitled to all the rights and privileges of the other citizens of said City and shall be bound by the acts, ordinances, resolutions and regulations of the City.
- (3) Whenever, in the opinion of the City Council, there exists within the corporate limits of the City any territory, either inhabited or uninhabited, not suitable or necessary for City purposes, or upon a petition signed by a majority of the qualified voters residing in said inhabited territory, the Council may, upon a public hearing and by ordinance duly passed, disannex said territory as part of the City. The City shall comply with all applicable procedural rules and notice requirements set forth in state law.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Municipal annexation, V.T.C.A., Local Government Code, ch. 43.

ARTICLE II. POWERS OF THE CITY*

Section 2.01. General Powers of the City.

The City shall have all powers and rights of self-government and home rule that exist now or may be granted to municipalities by the Constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution such granted powers, unless such power or right is expressly prohibited or restricted by this Charter. The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, and in addition to the powers enumerated herein, implied herein or appropriate to the exercise thereof, the City shall have and may exercise all other powers which under the Constitution and laws of the State of Texas it would be competent for this Charter specifically to enumerate. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 2.02. Public Improvements.

The City shall have the power to, among others, construct and maintain, within or without its corporate limits, public improvements as authorized by state statutes and such other public improvements as the City Council shall determine to serve a public purpose of the City, including but not limited to, constructing and maintaining streets, flood control and sanitary facilities, and water and storm drainage facilities, in, over, under or upon all public property or easements granted for that purpose and to levy assessments for the costs of such improvements. The City shall have the power to collect attorney's fees for the collection of assessments as allowed under state law. It shall have the power to cause liens to be established for the purpose of securing the payment of such levies and shall have the power to compel the use of such improvements by the citizens of the City. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 2.03. Eminent Domain.

The City shall have the full power, right, and authority to exercise the power of eminent domain, within or without its corporate limits, when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner not prohibited by the Constitution and state law. The power of eminent domain hereby conferred shall include the right of the City to take the fee and/or easement in lands so condemned, and such power and authority shall include the right to condemn public or private property for such purposes. The City

* **State law references**—General powers of home-rule municipality, V.T.C.A., Local Government Code, sec. 51.071 et seq.; authority of local self-government, V.T.C.A., Local Government Code, sec. 51.072.

shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law references—Eminent domain, V.T.C.A., Property Code, ch. 21; municipal right of eminent domain, V.T.C.A., Local Government Code, ch. 251.

Section 2.04. Miscellaneous Powers.

The City shall have the power to, among others, establish, enact and maintain ordinances and promulgate regulations governing the use of lands within the City and to enforce by all lawful means these ordinances and regulations, within and without its corporate limits. The City shall have the power to authorize, regulate and inspect all construction and existing structures within or without its limits, consistent with state statutes, and to establish, enact and enforce ordinances and regulations concerning their use, construction and reconstruction. The City shall have the power to contract and be contracted with, to buy, sell, lease, lease purchase, mortgage and/or manage property, to acquire property by donation or condemnation, and to control such property as its interests require. The City shall have the power to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade, unless prohibited by state law. The City shall have all powers granted by any section of this Charter, together with all of the implied powers necessary to carry into execution such granted powers. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

ARTICLE III. THE CITY COUNCIL

Section 3.01. Composition, Selection and Term.

(1) The City Council shall be composed of a Mayor and six (6) Council Members elected under the place system, with there being Places 1, 2, 3, 4, 5 and 6. The Mayor and each of the six (6) Council Members shall be elected at large, and unless sooner removed under the provisions of this Charter, shall serve for a term of three (3) years, and until their successor has been elected and duly qualified. All of the City Council holding office at the time of passage of this Charter or any amendments to this Charter shall continue to hold their respective offices until the respective term for which they were elected expires.

(2) There shall be held in the City on the third Saturday in May, 2004, and every three years thereafter, or on such other date or dates as may be prescribed by the laws of the State of Texas, a City election for City Council Places 1, 2, 4 and 6. There shall be held in the City on the first Saturday in May, 2005, and every three years thereafter, or on such other date or dates as may be prescribed by the laws of the State of Texas, a City election for the Mayor and City Council Places 3 and 5.

(3) A majority of the full membership of the City Council shall be four (4) City Council members.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 3.02. Limitations on Terms.

This Charter does not restrict or place limitations on the number of terms any one person may serve. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 3.03. Qualifications of City Council.

In addition to any other qualifications prescribed by law, the Mayor and each Council Member shall meet the following qualifications as also set forth in Section 5.02 of this Charter while in office:

- (1) Shall be at least twenty-one (21) years of age at the time of the election for which they are filing;
- (2) Shall be a qualified voter; and

- (3) Shall have resided within the corporate limits of the City, or recently annexed territory, for at least twelve (12) months immediately preceding Election Day.
- (4) No candidate for elective City office may file in a single election for more than one (1) office or position as provided by this Charter.
- (5) No employee of the City shall continue in any City employee position after filing for an elective office provided for in this Charter.
- (6) Candidates for elective City offices shall comply with all other City ordinances or resolutions that may be applicable.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law references—Eligibility for public office, V.T.C.A., Election Code, sec. 141.001 et seq.; age and residence requirements for home-rule city office, V.T.C.A., Election Code, sec. 141.003.

Section 3.04. Compensation.

Compensation of the City Council shall be \$50 per council meeting for which the Council Member is present. The compensation of the Mayor shall be \$75 per council meeting for which the Mayor is present. For council meetings which the Mayor Pro-Tem or other Council Member acts as Mayor, that person shall receive \$75. The City Council may also be entitled to reimbursement for actual expenses incurred in the performance of official duties in accordance with the policies adopted by the City Council. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Compensation of officers in home-rule municipality, V.T.C.A., Local Government Code, sec. 141.004.

Section 3.05. Mayor, Mayor Pro-Tem and Deputy Mayor Pro-Tem.

(1) The Mayor shall attend and preside at meetings of the City Council, and shall be recognized as head of the City government for all ceremonial purposes, and by the Governor for purposes of military law, but shall have no regular administrative duties. The Mayor may participate in the discussion of all matters coming before the City Council and shall have a vote as a member thereof, on legislative or other matters, unless otherwise prohibited by law, and shall have no power to veto.

(2) The Mayor shall also represent the City in intergovernmental relationships, and shall perform other duties specified by the City Council, imposed by this Charter and by ordinances and resolutions passed in pursuance thereof. Additionally, the Mayor, the City Manager, or designee shall sign, after authorization by the City Council, all contracts and conveyances made or entered into by the City and all bonds, warrants and any other obligation issued under the provisions of this Charter, in the manner prescribed in the ordinance or resolution authorizing the signing of any such obligation.

(3) The Mayor Pro-Tem shall be a Council Member elected to be the Mayor Pro-Tem by the City Council at the first meeting of each Council after each election or as soon thereafter as practicable, but not later than the last business day of July in the year that the election was held. The Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor and in this capacity shall have the rights conferred upon the Mayor.

(4) The Deputy Mayor Pro-Tem shall be a Council Member elected to be the Deputy Mayor Pro-Tem by the City Council at the first meeting of each Council after each election or as soon thereafter as practicable, but not later than the last business day of July in the year that the election was held. The Deputy Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor and Mayor Pro-Tem, and in this capacity shall have the rights conferred upon the Mayor.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 3.06. Vacancies, Forfeiture and Filling of Vacancies.

(1) The office of a Council Member or the Mayor shall become vacant upon his or her death, resignation, incapacity, forfeiture of office, or removal from office, by any manner authorized by law.

(2) If any Member of the City Council is absent from three (3) consecutive regular meetings, without explanation acceptable to a majority of the remaining Council Members, his or her office shall be declared vacant, by resolution, at the next regular meeting of the City Council. The City Council shall convene a public hearing before exercising its authority under this provision, and permit the Council Member facing expulsion to be heard regarding absences.

(3) Any person on the City Council who:

- (A) ceases to possess the required qualifications for office as set forth in Section 5.02 of this Charter, or
- (B) ceases to reside within the corporate limits or recently annexed territory of the City, or
- (C) is convicted of a felony, or of a misdemeanor involving moral turpitude, or
- (D) is convicted of violating any state laws regulating conflicts of interest of municipal officers, or
- (E) is in violation of any part of Article 14 of this Charter,

shall forfeit his or her office. Every forfeiture shall be declared and enforced by the City Council. The City Council shall convene a public hearing before exercising its authority under this provision, and permit the Council member to be heard regarding forfeiture of office.

(4) If there is a vacancy in the office of Mayor, a new Mayor shall be elected by special election within one hundred twenty (120) days after such vacancy occurs, in accordance with the Texas Constitution and the Texas Election Code.

(5) A vacancy in the office of a Council Member shall be filled by special election within one hundred twenty (120) days after such vacancy occurs, in accordance with the Texas Constitution and the Texas Election Code. If the vacated office is that of Mayor Pro-Tem or Deputy Mayor Pro-Tem, the City Council shall elect a new Mayor Pro-Tem or Deputy Mayor Pro-Tem at the next regular meeting.

(6) Vacancies filled by special election shall be for the remainder of the term that was vacated.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Special election to fill vacancy generally, V.T.C.A., Election Code, sec. 201.051 et seq.

Section 3.07. Powers of the City Council.

All powers of the City and the determination of all matters of policy shall be vested in the City Council (which is composed of the Mayor and six (6) Council Members). Except where in conflict with and otherwise expressly provided by this Charter, the City Council shall have all powers authorized to be exercised by the Constitution and laws of the United States and the State of Texas. Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove the City Manager;
- (2) Appoint and remove the Municipal Judge(s) of the Municipal Court;
- (3) Appoint and remove the City Attorney;

- (4) Appoint and remove the City Secretary;
- (5) Adopt the budget of the City;
- (6) Collectively investigate into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;
- (7) Provide for a Planning and Zoning Commission, a Board of Adjustment and other boards as deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law;
- (8) Adopt and modify the official map of the City;
- (9) Adopt, modify and carry out plans in conjunction with the Planning and Zoning Commission for the planning, improvement and redevelopment of specific areas of the City;
- (10) Adopt, modify and carry out plans in conjunction with the Planning and Zoning Commission for the planning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or part by disaster;
- (11) Regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire on the public streets and alleys of the City;
- (12) Provide for the establishment and designation of fire safety codes and prescribe the kind and character of buildings or structures or improvements to be erected therein; provide for the erection of fireproof buildings within certain limits; and provide for the condemnation of dilapidated buildings, dangerous structures, dangerous buildings or buildings determined to increase the risk of fire hazard, and provide for the manner of their removal or destruction;
- (13) Fix and regulate rates and charges of all utilities and public services provided by the City;
- (14) Approve plats, unless the City Council votes to vest this authority exclusively in the Planning and Zoning Commission; and
- (15) Individually ask questions of the City Manager regarding City business. Individually ask questions of the department heads regarding items on the posted agenda. Any and all other inquiries to department heads or staff shall follow the City's Governance Policy.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 3.08. Prohibitions.

- (1) Except where authorized by law or by this Charter, no Mayor or Council Member shall hold any other City office or City employment during his or her term as Mayor or Council Member. No former Mayor or Council Member shall hold any compensated appointive office or City employment until one (1) year after the expiration of the term for which they were elected to the City Council.
- (2) Members of the City Council shall not in any way dictate the appointment, removal, or discipline of the City administrative officers or employees appointed by the City Manager or any of the City Manager's subordinates.
- (3) Except for the purpose of inquiries and investigations as provided by this Charter and in accordance with the City's Governance Policy, the City Council shall interact with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. The City Council shall not

give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this Charter.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 3.09. Meetings of the City Council.

(1) The City Council shall meet regularly at such dates and times as may be prescribed by ordinance or resolution, but not less frequently than once each calendar month to transact the business of the City.

(2) Special meetings of the City Council shall be called by the City Secretary upon request of the Mayor, City Manager or three (3) Council Members. Special meetings shall be held and notice given in accordance with state law.

(3) Except as provided by state law, all City Council meetings shall be open to the public and shall be held and notice given in accordance with state law.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Open meetings, V.T.C.A., Government Code, ch. 551.

Section 3.10. Quorum.

Four (4) members of the City Council shall constitute a quorum for the purpose of transaction of business. No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the City Council present and qualified to act. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 3.11. Conflict of Interest.

Should any person on the City Council have a conflict of interest, pursuant to any state laws and/or City ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the City Council, he or she shall disclose such interest to the other members of the City Council, and he or she is thereby prohibited from discussing or voting on the item, and shall not be considered as present and voting for the purposes of the tally. Council members who have a conflict of interest are considered present for purposes of constituting a quorum. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law references—Conflicts of interest of officers, V.T.C.A., Local Government Code, ch. 171; public disclosure, V.T.C.A., Government Code, ch. 553.

Section 3.12. Abstention.

Should any person on the City Council choose to abstain from voting on any agenda item before the City Council, where no conflict of interest exists, the person's vote shall be deemed and recorded as a negative vote. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 3.13. Rules of Procedure.

The City Council shall determine by ordinance, resolution, or otherwise, its own rules of order and business. The City Council shall provide that members of the public shall have a reasonable opportunity to clearly be heard at public hearings with regard to specific matters under consideration. In addition, the Council will provide reasonable opportunity for public comments concerning items not on the agenda. The City Council shall provide for minutes to be taken and recorded for all public meetings as required by law. Such minutes shall be a public record and shall be kept and maintained by the City Secretary. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 3.14. Passage of Ordinances in General.

(1) The City Council shall legislate by ordinance only, and the enacting clause of every ordinance shall read "Be it ordained by the City Council of the City of Murphy, Texas" Each proposed ordinance shall be introduced in the written or printed form required for adoption. Each and every ordinance shall contain a title or caption that identifies the subject(s) addressed in the ordinance. General appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. After adoption, an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. Copies of any proposed ordinance, in the form required for adoption, shall be furnished to the City Council. Copies of the proposed ordinance, in the form required for adoption, shall be available at the City offices and shall be furnished to the public upon request to the City Secretary from and after the date on which such proposed ordinance is posted as an agenda item for a City Council meeting and, if amended, shall be available and furnished in amended form for as long as the proposed ordinance is before the City Council.

(2) Unless otherwise required by law, every ordinance shall become effective upon adoption or at any later time(s) specified in the ordinance, except that every penal ordinance imposing any penalty, fine or forfeiture shall become effective only after having the descriptive title or caption of the same published at least one time after final passage in a newspaper designated as the official newspaper of the City.

(3) If a majority of the City Council present at a council meeting request that the ordinance title and caption or its entirety be read, it must be read.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Publication of ordinances, V.T.C.A., Local Government Code, sec. 52.013.

Section 3.15. Emergency Ordinances.

(1) The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money except as provided elsewhere in this Charter.

(2) An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they shall be plainly designated in the title as an emergency ordinance and shall contain after the enacting clause a declaration stating that an emergency exists and describing the emergency in clear and specific terms.

(3) An emergency ordinance may be introduced at any City Council meeting and can be adopted with or without amendment or rejected at the meeting at which it is introduced.

(4) Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practicable as required by law. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, is automatically repealed as of the sixty-first (61st) day following the day on which it became effective. The ordinance may be re-enacted if the emergency still exists.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 3.16. Authentication, Recording, Codification, Printing and Distribution.

(1) All ordinances and resolutions adopted by the City Council shall be authenticated by seal and signature of the person performing the duties of the City Secretary and numbered consecutively as adopted. They shall be properly indexed and placed in a book kept open for public inspection.

(2) The City Council may maintain the codification of ordinances of the City. This codification shall be known and cited as "The Murphy City Code" and shall be in full force and effect without the necessity of such

code or any part thereof being published in any newspaper. The caption, descriptive clause and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when codified. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the code. For the purpose of this section, general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the City at large. Copies of the code shall be furnished to City Officers, placed in City offices and made available for purchase by the public at a reasonable price to be determined by the City Council, not to exceed the costs permitted by state law.

(3) The City Council shall cause all ordinances and amendments to this Charter to be printed promptly following their adoption. A copy of each ordinance and Charter amendment shall be placed in appropriate City offices for public reference. Printed ordinances and Charter amendments shall be sold to the public at a reasonable price to be determined by the City Council, not to exceed the costs permitted by state law.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Code of ordinances, V.T.C.A., Local Government Code, ch. 53.

Section 3.17. Investigations by the City Council.

The City Council, by an affirmative vote of at least four (4) members of the City Council, shall have the power to collectively investigate into the official conduct of any department, agency, office, officer, Council Member or employee of the City and to make, direct or supervise investigation(s) as to municipal affairs, and for that purpose, the City Council collectively shall have the power to administer oaths, subpoena witnesses and compel the production of books, papers or other evidence material to the investigation. The City Council shall provide by ordinance the penalties for contempt for failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by the ordinance. The Council may produce its findings publicly. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 3.18. Bond.

The City Council may require bonds of all municipal officers and employees who receive or pay out any monies of the City. The amount of the bonds may be determined by the City Council and the cost shall be borne by the City. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Official bonds, V.T.C.A., Government Code, ch. 604.

ARTICLE IV. CITY ADMINISTRATION*

Section 4.01. City Manager.

(1) The City Council shall appoint, upon the affirmative vote of a majority of the full membership of the City Council, a City Manager who shall serve as Chief Administrative Officer of the City. The City Manager shall be responsible to the City Council for administration of all the affairs of the City, with only those exceptions that are named in this Charter. The City Manager shall be appointed solely upon the City Manager's executive, administrative and educational qualifications, and shall have previous city manager or assistant city manager experience and/or a degree in a field related to city government. The City Manager need not be a resident of the City when appointed, but shall within a reasonable time after such appointment reside within the City during the balance of the tenure of his or her appointment.

* **State law references**—Creation of municipal offices, V.T.C.A., Local Government Code, sec. 26.041; residency requirements for municipal employees, V.T.C.A., Local Government Code, sec. 150.021.

(2) The City Council shall fix the compensation of the City Manager and the City Manager's compensation may be amended, by the City Council, from time to time, in accordance with the City Manager's experience, qualifications and performance.

(3) The City Manager shall be appointed for an indefinite term or term defined by the City Council, and may be removed or suspended, with or without cause (subject to any contractual arrangements that may exist between the City and the City Manager), at the discretion of the City Council by the affirmative vote of a majority of the full membership of the City Council. Upon a decision to remove or suspend the City Manager, written notice of such decision shall be immediately furnished to him or her.

(4) In case of the absence, disability, incapacity or suspension of the City Manager, the City Council may designate a temporary qualified administrative officer of the City to perform the duties of the office.

(5) The City Manager shall:

- (A) Appoint, suspend, discipline and/or remove all City employees and appointive administrative officers provided for in this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant thereto;
- (B) Establish administrative departments;
- (C) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by law or this Charter;
- (D) Ensure that all state laws and city ordinances are effectively enforced;
- (E) Attend all City Council meetings with the right to take part in discussion, but the City Manager shall not vote;
- (F) Prepare, accept and, designate, or delegate an appropriate department head or City employee to prepare, accept and designate, items for inclusion in the official agenda of all City Council meetings and meetings of all boards and commissions;
- (G) Prepare and recommend to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council;
- (H) Keep the City Council fully advised and informed at least quarterly, or at the request of individual City Council Members, as to the financial conditions and future needs of the City, and make such recommendations concerning the affairs of the City, as the City Manager or the City Council deems desirable or necessary;
- (I) Make reports as the City Manager or the City Council may require concerning the operations of the City departments, offices or agencies subject to the City Manager's direction or supervision; and
- (J) Perform such other duties as are specified in this Charter or may be required by the City Council, and are consistent with this Charter and state or federal law.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 4.02. City Secretary.

(1) The City Secretary shall be appointed for an indefinite term or term defined by the City Council, and may be removed or suspended, with or without cause (subject to any contractual arrangements that may exist between the City and the City Secretary), at the discretion of the City Council by the affirmative vote of a majority of the full membership of the City Council. Upon a decision to remove or suspend the City Secretary, written notice of such decision shall be immediately furnished to him or her.

(2) The City Council shall fix the compensation of the City Secretary, and the City Secretary's compensation may be amended by the City Council, from time to time, in accordance with the City Secretary's experience, qualifications and performance.

(3) The City Secretary shall:

- (A) Give notice of all public meetings and public hearings of the City Council in a manner consistent with this Charter and state laws;
- (B) Attend all public meetings and hearings of the City Council;
- (C) Keep the minutes of the proceedings of all public meetings and hearings of the City Council in a manner prescribed by the City Council consistent with applicable law;
- (D) Act as custodian of all official records of the City Council;
- (E) Hold and maintain the seal of the City and affix this seal to all appropriate documents;
- (F) Authenticate by signature and seal and record all ordinances, resolutions and proclamations of the City; and
- (G) Perform such other duties as may be required by the City Council consistent with this Charter and the laws of the State of Texas.

(4) In case of the absence, disability, incapacity or suspension of the City Secretary, the City Council may designate a temporary qualified employee of the City to perform the duties of the office.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 4.03. Municipal Court.

(1) The City Council shall establish and cause to be maintained a Municipal Court. The Court shall have all the powers and duties as may be prescribed by state law.

(2) The City Council shall appoint by the affirmative vote of a majority of the full membership of the City Council such Municipal Judge(s) and Alternate Municipal Judge(s) of the Municipal Court as may be necessary, all of whom shall be competent, duly qualified attorneys licensed and practicing for at least two (2) years in the State of Texas. The Municipal Judge(s) of the Municipal Court(s) shall be appointed to a term of two (2) years and shall remain in office after the end of that term until the City Council considers appointment for the subsequent term. The Municipal Judge(s) may be appointed to additional consecutive terms upon completion of his/her/their term(s) of office. The appointment of the Municipal Judge(s) may be terminated, with or without cause, at any time by the affirmative vote of a majority of the full membership of the City Council. The Municipal Judge(s) shall receive compensation as may be determined by the City Council.

(3) The Clerk and Deputy Clerks of the Municipal Court(s) shall be appointed and supervised by the City Manager, and the Clerk and Deputy Clerks shall have the power to administer oaths, certify affidavits, make certificates, affix the seal of the Court, and perform all usual and necessary clerical acts in conducting the business of the Court(s), including but not limited to, the keeping of records and accounts of the Municipal Court(s).

(4) All special expenses and fines imposed by the Municipal Court(s) shall be paid into the City treasury for the use and benefit of the City, as may be consistent with present and future laws.

(5) The City Prosecutor(s) of the Municipal Court(s) shall be the City Attorney or their designee subject to the approval of the City Manager.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Municipal courts generally, V.T.C.A., Government Code, sec. 29.001 et seq.

Section 4.04. City Attorney.

(1) The City Council shall appoint by the affirmative vote of a majority of the full membership of the City Council a competent, duly qualified licensed and practicing attorney in the State of Texas who shall serve as the City Attorney. The City's Governance Policy shall be applicable to this section if adopted by the City Council.

(2) The City Attorney shall:

- (A) Serve as the legal advisor to the City Council and City Manager;
- (B) Represent the City in litigation and legal proceedings as directed by the City Council and the City Manager; and
- (C) Review and provide opinions as requested by the City Council or City Manager on contracts, legal instruments, ordinances of the City and other City business.

(3) The City Council shall have the right to retain special counsel at any time that it may deem necessary and appropriate.

(4) The City Attorney and special counsel shall receive compensation as may be determined by the City Council.

(5) The City Attorney, with approval of the City Council, may select additional attorneys to act for him and the City in its representation and/or litigation.

(6) The City Attorney may be removed, with or without cause, by the affirmative vote of a majority of the full membership of the City Council.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 4.05. Administrative Departments, Offices and Agencies.

(1) The City Manager may establish, abolish, redesignate and/or combine departments, offices or agencies in addition to those provided for by this Charter, and may prescribe the functions and duties of such departments, offices and agencies.

(2) Except as provided elsewhere in this Charter, all departments, offices and agencies of the City shall be under the direction and supervision of the City Manager and shall be administered by officers appointed by and subject to the direction and supervision of the City Manager. The City Manager may appoint one (1) person as head of two (2) or more departments, offices or agencies and with the consent of the City Council, may serve as the head of one (1) or more City departments, offices or agencies.

(3) The City Manager may appoint a City Tax Collector, whose duties and functions shall be those usual to the office and consistent with existing or future laws of the State of Texas as they may apply to City or County tax collectors. The City Manager may recommend that the City Council enter into a contract for such services.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 4.06. Personnel System.

(1) Personnel rules shall be prepared by the City Manager and presented to the City Council, who may adopt them with or without amendment. The adopted rules shall establish the City as an Equal Opportunity Employer and shall govern the equitable administration of the personnel system of the City. Thereafter, the City Manager shall have the power to recommend additions to, modifications of, or deletions from, such rules to the City Council in the same manner used for the adoption of the original rules.

(2) The adopted rules shall provide for the following requirements:

- (A) A compensation plan for all City employment positions;
- (B) A plan for working hours, attendance policy and regulation and provision for sick and vacation leave;
- (C) Procedures for the hearing and adjudication of grievances;
- (D) Additional practices and procedures necessary to the beneficial and equitable administration of the City's personnel system;
- (E) A plan for annual oral and written evaluation based on a job description for all City employees by their immediate supervisor, including evaluation of the City Manager, City Secretary, Municipal Judge and City Attorney by the City Council; and
- (F) A clear and concise statement that all City employees are at-will employees.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

ARTICLE V. NOMINATIONS AND ELECTIONS***Section 5.01. City Elections.**

- (1) All city elections shall be conducted in accordance with the Texas Election Code.
- (2) The City Council may, by resolution or ordinance, order a special election for purposes consistent with this Charter and laws of the State of Texas.
- (3) Municipal elections shall be conducted by election officials appointed by the City Council, or as prescribed by law. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.
- (4) All municipal elections shall be publicized in accordance with the Texas Election Code.
- (5) A sample ballot shall be published, printed, and made available on the official City website and at City Hall as required by law.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 5.02. Filing for Office.

- (1) Candidates for elective city offices shall file for office in accordance with the Texas Election Code.

* **State law references**—Applicability of Election Code, V.T.C.A., Election Code, sec. 1.002; authority to order election by political subdivision, V.T.C.A., Election Code, sec. 3.004.

- (2) Candidates for elective City offices shall meet the following qualifications:
- (A) Shall be at least twenty-one (21) years of age at the time of the election for which they are filing;
 - (B) Shall be a qualified voter; and
 - (C) Shall have resided within the corporate limits of the City, or recently annexed territory, for at least twelve (12) months immediately preceding Election Day.
- (3) No candidate for elective City office may file in a single election for more than one (1) office or position as provided by this Charter.
- (4) No employee of the City shall continue in any City employee position after filing for an elective office provided for in this Charter.
- (5) Candidates for elective City offices shall comply with all other City ordinances or resolutions that may be applicable.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law references—Eligibility for public office, V.T.C.A., Election Code, sec. 141.001 et seq.; age and residence requirements for home-rule city office, V.T.C.A., Election Code, sec. 141.003; candidate's application for home-rule city office, V.T.C.A., Election Code, sec. 143.005.

Section 5.03. Official Ballots.

- (1) The name of each candidate seeking elective office, except those who have withdrawn, died, or become ineligible, and who are authorized to have their names removed from the ballot consistent with state law, shall be printed on the official ballot in the form designated by the candidate in accordance with the Texas Election Code. If two (2) or more candidates have the same surname, their middle name or other identifier shall be printed with their names on the ballot.
- (2) The order of the names of the candidates on the ballot shall be determined by lot in a public drawing to be held under the supervision of the City Secretary in accordance with the Texas Election Code.
- (3) Procedures for voting by absentee ballot shall be consistent with the Texas Election Code.
- (4) An ordinance, bond issue or Charter amendment to be voted on by the voters of the City shall be presented for voting by ballot title. The ballot title of a measure may be different from its legal title and shall be a clear, concise statement, approved by the City Council, describing the substance of the measure without argument or prejudice.
- (5) Procedures for write-in votes shall be consistent with the Texas Election Code.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Ballot form, content and preparation, V.T.C.A., Election Code, ch. 52.

Section 5.04. Official Results.

- (1) The candidate for elective office receiving a majority of the votes cast shall be declared the winner. In the event that no candidate receives a majority of all votes cast for any one place at such election, the City Council shall, upon completion of the official canvass of the ballots, issue a call for a runoff election to be held within thirty (30) days following the issuance of such call, or in accordance with the Texas Election Code. At such runoff election, the two (2) candidates receiving the highest number of votes (or three (3) persons in case of tie for second place) for any one place in the first election shall be placed on the runoff ballot for such election.

(2) The returns of every municipal election shall be handled in accordance with the Texas Election Code.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law references—Canvassing elections, V.T.C.A., Election Code, ch. 67; election by plurality, V.T.C.A., Election Code, sec. 2.001 et seq.; runoff election, V.T.C.A., Election Code, sec. 2.021 et seq.

Section 5.05. Taking of Office.

(1) Each newly elected person to the City Council shall take the oath of office and be inducted into office at the first regular City Council meeting following the election.

(2) At such meeting the oath of office shall be administered in accordance with state law.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

ARTICLE VI. RECALL, INITIATIVE AND REFERENDUM

Section 6.01. Scope of Recall.

Any elected City official shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetence, misconduct or malfeasance in office. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.02. Petitions for Recall.

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary, which said petition must be signed by thirty percent (30%) of the number of votes cast for the place or position held by that member of the City Council in the last general municipal election for that place or position, or three hundred (300) registered qualified voters, whichever is greater. Each signer of such recall petition shall be a qualified voter of the City and shall provide all requisite information as required by the Texas Election Code and this Charter. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.03. Form of Recall Petition.

The recall petition mentioned above must be addressed to the City Council, must be distinctly and specifically pointed to the grounds upon which such petition for removal is predicated, and, if there be more than one (1) ground, said petition shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which the officer is charged. The petition shall contain, in addition to the signature, the signer's name, the signer's date of birth or voter's registration number, the signer's residence address and the date of signing. The signature shall be verified by oath in the following form.

"State of Texas
County of Collin

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

Signature

Sworn and subscribed before me this _____ day of _____, 20____.

Signed _____
 Notary Public in and for the State of Texas”

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.04. Various Papers Constituting Petition.

The petition may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other paper attached thereto. Verifications provided for in Section 6.03 of this Article may be made by one (1) or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons. No signatures to such petition shall remain effective or be counted if they were placed on the petition more than forty-five (45) days prior to the filing of such petition or petitions with the City Secretary. All papers comprising a recall petition shall be filed with the City Secretary on the same day, and the City Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to the officer’s City address. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.05. Presentation of Petition to the City Council.

Within twenty-one (21) days after the date of the filing of the papers constituting the recall petition, the City Secretary shall confirm the signatures on the petition and, if the petition is determined to be legally sufficient, present such petition to the City Council. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.06. Public Hearing to be Held.

The officer whose removal is sought may, within seven (7) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him or her to present the facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.07. Calling of Recall Election.

If the officer whose removal is sought does not resign, then the City Council shall order an election and set the date for holding such recall election. The date selected for the recall election shall be in accordance with the Texas Election Code. If after the recall election date is established, the officer vacates his or her position, the election shall be cancelled. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.08. Ballots in Recall Election.

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

- (1) With respect to each person whose removal is sought, the question shall be submitted:
 “Shall _____ be removed from the office of _____ by recall?”
- (2) Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:
 “Yes”
 “No”

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.09. Result of Recall Election.

If a majority of the votes cast at a recall election shall be “No,” that is, against the recall of the officer named on the ballot, the officer shall continue in office for the remainder of his or her unexpired term, subject to recall as before. If a majority of the votes cast at such election be “Yes,” that is, for the recall of the officer named on the ballot, the officer shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled by the City Council as provided in this Charter. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.10. Restrictions on Recall.

(1) No recall petition shall be filed against any officer of the City within six (6) months after the officer’s election, nor within six (6) months after an election for such officer’s recall.

(2) No more than three (3) petitions for recall shall be filed and/or be pending for resolution by election until those three (3) petitions for recall have been resolved by the recall election and an election has been ordered to fill any vacancies created by the recall election.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.11. Failure of the City Council to Call a Recall Election.

If all the requirements of this Charter shall have been met and the City Council fails to receive the recall petition, or order such recall election, or discharge any other duties imposed on the City Council by the provisions of this Charter with reference to such recall, then any petitioning citizen may file with the appropriate court for a writ of mandamus to force the City to call the election. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.12. General Power of Initiative and Referendum.

The qualified voters of the City, in addition to the method of legislation herein before provided, shall have the power of direct legislation by initiative and referendum.

- (1) Initiative: Such power shall not extend to the budget, capital program or any ordinance not subject to initiative as provided by state law.
- (2) Referendum: Such power shall not extend to the budget, capital program or any emergency ordinance or ordinance not subject to referendum as provided by state law.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.13. Initiative.

Following a review by the City Attorney for enforceability and legality, qualified voters of the City may initiate legislation by submitting a petition addressed to the City Council that requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by a minimum of thirty percent (30%) of the number of votes cast at the last regular City election, or three hundred (300) registered qualified voters, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed as provided in this Article, and shall be verified by oath in the manner and form provided for recall petitions in this Article. The petition may consist of one (1) or more copies as permitted for recall petitions. Such petition shall be filed with City Secretary. Within twenty-one (21) days after the filing of such petition, the City Secretary, or the person performing the duties of the City Secretary, shall confirm the signatures on the petition and, if the petition is determined to be legally sufficient, present said petition and proposed ordinance or resolution to the City Council. Upon presentation to the City Council, it shall become the duty of the City Council, within two (2) regularly scheduled City Council meetings after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect, or to call a special election, to be held on a date allowed

under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days following the filing of the petition, the question may be voted on at such election. Any election order so issued shall comply fully with the Texas Election Code. Unless otherwise provided by law, any election for an initiative under this Charter shall be held on the first authorized uniform election date that occurs after the sixty-fifth (65th) day after the petition was presented to the City Council. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.14. Referendum.

Qualified voters of the City may require that any ordinance or resolution passed by the City Council or instituted by the initiative process under this Charter be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, signed and verified as required for recall petitions in this Article and shall be submitted to the City Secretary. Immediately upon the filing of such petition, the City Secretary shall confirm the signatures on the petition and, if the petition is determined to be legally sufficient, present said petition to the City Council. Thereupon the City Council shall immediately reconsider such ordinance or resolution and, if the City Council does not entirely repeal the same, shall submit it to popular vote as provided in Section 6.13 of this Charter. Pending the holding of such election, each ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof. Unless otherwise provided by law, any election for a referendum under this Charter shall be held on the first authorized uniform election date that occurs after the sixty fifth (65th) day after the petition was presented to the City Council. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.15. Voluntary Submission of Legislation by the City Council.

The City Council, upon its own motion and by the affirmative vote of a majority of the full membership of the City Council, may submit to popular vote at any election, for adoption or rejection, any proposed ordinance, resolution or measure, or may submit for repeal any existing ordinance, resolution or measure in the same manner and with the same force and effect as provided in this Article for submission of a petition, and may at its discretion call a special election for this purpose. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.16. Form of Ballots.

The ballots used when voting upon such proposed and referred ordinance, resolutions or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words: "For the Ordinance" or "Against the Ordinance" or "For the Resolution" or "Against the Resolution." (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.17. Publication of Proposed and Referred Ordinances.

The City Secretary shall publish, print and make available on the official City's website and at City Hall, the caption or a summary of the proposed or referred ordinance or resolution within fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as are required by law in municipal elections and by the ordinance or resolution calling said election. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.18. Adoption of Ordinances.

If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon or at any time fixed therein, become effective as a law or as a mandatory order of the City Council. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.19. Inconsistent Ordinances.

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.20. Ordinances Passed by Popular Vote, Repeal or Amendment.

No ordinance or resolution which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the City Council in response to a referendum petition or by submission as provided by Section 6.15 of this Charter. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.21. Further Regulations by the City Council.

The City Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this Article consistent herewith. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.22. Franchise Ordinances.

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of this Charter pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 6.23. Failure of the City Council to Call an Initiative or Referendum Election.

If all of the requirements of this Charter have been met and the City Council fails or refuses to receive the initiative or referendum petition, or order such initiative or referendum election, or discharge any other duties imposed on the City Council by the provisions of this Charter with reference to such initiative or referendum, then any petitioning citizen may file with the appropriate court for a writ of mandamus to force the City to call the election. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

ARTICLE VII. FINANCIAL PROCEDURES***Section 7.01. Fiscal Year.**

The fiscal year of the City shall begin on the first day of October and end on the last day of September on the next succeeding year. Such fiscal year shall also constitute the budget and accounting year. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law references—Power to establish fiscal year, V.T.C.A., Local Government Code, sec. 101.022; city fiscal year, V.T.C.A., Tax Code, sec. 1.05.

Section 7.02. Submission of Budget and Budget Message.

On or before the tenth (10th) day of August of the fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying budget message. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

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

* **State law references**—General financial provisions applicable to home-rule municipality, V.T.C.A., Local Government Code, sec. 101.021 et seq.; municipal budget, V.T.C.A., Local Government Code, ch. 102; local taxation, V.T.C.A., Tax Code, ch. 301 et seq.

Section 7.03. Budget Message.

The City Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the City's debt position, and include such other material as the City Manager deems desirable. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 7.04. Budget a Public Record.

The budget and all supporting schedules shall be filed with the City Secretary when submitted to the City Council and shall be open to public inspection by anyone interested. When the notice of public hearing on the budget is posted, a copy of the budget summaries shall be posted on the official City Website. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

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

Section 7.05. Public Hearing on Budget.

At the City Council meeting when the budget is submitted, the City Council shall designate the date, time and place of a public hearing which shall be published, printed, and made available on the official City website and at City Hall as required by law. At this hearing, interested persons may express their opinions concerning the budget, including items of expenditures, giving their reasons for wishing to increase or decrease any items of expense. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

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

Section 7.06. Proceeding on Adoption of Budget.

After public hearing, the City Council shall analyze the budget, making any additions or deletions which they determine are appropriate, and shall, adopt the budget by the affirmative vote of a majority of the full membership of the City Council. Should the City Council take no final action on or prior to such day, the current budget shall be in force on a month-to-month basis until a new budget is adopted. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Adoption of budget, V.T.C.A., Local Government Code, sec. 102.007.

Section 7.07. Budget, Appropriation and Amount to be Raised by Taxation.

On final adoption, the budget shall be in effect for that budget year. Final adoption of the budget by the City Council shall constitute the official appropriations as proposed by expenditures for that budget year and shall constitute the basis of official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any item required for the same general purpose. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Levy of taxes and expenditure of funds under budget, emergency expenditure, V.T.C.A., Local Government Code, sec. 102.009.

Section 7.08. Contingent Appropriation.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than three percent (3%) of the total general fund expenditures, to be used in case of unforeseen items of expenditures. This contingent appropriation shall apply to current operating expenses and shall not include any reserve funds of the City. Such contingent appropriation shall be under the control of the City Manager and distributed by him only after prior approval by the City Council. The proceeds of the

contingent appropriation shall be disbursed only by transfer to other departmental appropriation, the spending of which shall be charged to the departments or activities for which the appropriations are made. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 7.09. Amending the Budget.

Under conditions which may arise, and for municipal purposes, the City Council may, by the affirmative vote of a majority of the full membership of the City Council, amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments shall be by ordinance, and shall become an attachment to the original budget. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

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

Section 7.10. Certification; Copies Made Available.

A copy of the budget, as finally adopted, shall be filed with the City Secretary, such other places required by state law, and as the City Council shall designate. The final budget shall be printed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies, interested persons and civic organizations. Additionally, a copy of the budget summaries shall be posted on the official City Website. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Approved budget filed with municipal clerk, V.T.C.A., Local Government Code, sec. 102.008.

Section 7.11. Capital Program.

The City Manager shall submit a five (5) year capital program as an attachment to the annual budget. The program as submitted shall include:

- (1) A clear general summary of its contents;
- (2) A list of all capital improvements which are proposed to be undertaken during the next five (5) fiscal years, with appropriate supporting information as to the necessity for such improvements;
- (3) Cost estimates, method of financing, and recommended time schedules for each improvement; and
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 7.12. Defect Shall Not Invalidate the Tax Levy.

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 7.13. Lapse of Appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation. Any funds not expended, disbursed or encumbered shall be deemed excess funds. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 7.14. Borrowing.

(1) The City shall have the right and power, except as prohibited by law or this Charter, to borrow money by whatever method it may deem to be in the public interest.

(2) Emergency Funding: In any budget year, the City Council shall have full powers authorized by law to borrow money in response to an emergency. Notes may be issued which are repayable not later than the end of the current fiscal year.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 7.15. Purchasing.

(1) The City Council may by ordinance give the City Manager general authority to contract for expenditures without further approval of the City Council for all budgeted items not exceeding limits set by the City Council within the ordinance.

(2) All contracts for expenditures or purchases involving more than the limits must be expressly approved in advance by the City Council. All contracts or purchases involving more than the limits set by the City Council shall be awarded by the City Council, in accordance with state law.

(3) Emergency contracts as authorized by law and this Charter may be negotiated by the City Council or City Manager if given authority by the City Council, without competitive bidding, and in accordance with state law. Such emergency shall be declared by the City Manager and approved by the City Council, or may be declared by the City Council.

(4) Spending, purchasing, and sale of real or personal property guidelines shall be set by policy approved by the City Council and shall be consistent with state law.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Purchasing and contracting authority of municipality, V.T.C.A., Local Government Code, chs. 252, 271.

Section 7.16. Administration of Budget.

(1) No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made, unless the City Manager, or the City Manager's designee, first confirms that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds are or will be available to cover the claim or meet the obligation when it becomes due and payable.

(2) Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such payment or obligation, and the officer shall also be liable to the City for any amount so paid.

(3) This prohibition shall not be construed to prevent the making or authorizing of payments, or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, providing that such action is made or approved by ordinance.

(4) The City Manager shall submit to the City Council as often as the City Council may request, but not less than once a quarter a report covering the revenues and expenditures of the City in such form as requested by the City Council.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 7.17. Depository.

All monies received by any person, department or agency of the City for or in connection with the affairs of the City shall be deposited promptly in the City depository or depositories. The City depositories shall be designated by the City Council in accordance with such regulations and subject to the requirements as to security for deposits and interest thereon as may be established by ordinance and state law. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Depositories for municipal funds, V.T.C.A., Local Government Code, ch. 105.

Section 7.18. Independent Audit.

At the close of each fiscal year, and at such other times as may be deemed necessary, the City Council shall call for an independent audit of all accounts of the City by a certified public accountant in accordance with state law. No more than five (5) consecutive annual audits shall be completed by the same accountant or accounting firm. The certified public accountant selected shall have no direct or indirect personal interest in the financial affairs of the City or any of its officers. The report of audit, with the auditor's recommendations, will be made to the City Council. Upon completion of the audit, the summary shall be published within thirty (30) days in the official newspaper of the City, shall be posted on the official City Website, and copies of the audit placed on file in the office of the City Secretary, as a public record. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

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

Section 7.19. Power to Tax.

(1) The City shall have the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by the Constitution and laws of the State of Texas. The City shall designate or contract for a Tax Collector for the City.

(2) The City shall have the power to grant tax exemptions in accordance with the laws of the State of Texas.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 7.20. Taxes; When Due and Payable.

(1) All taxes due in the City shall be payable at the office of the City Tax Collector, or at such location or locations as may be designated by the City Council, and may be paid at any time after the tax rolls for the year have been completed and approved. Taxes for each year shall be paid before February 1 of the next succeeding year, and all such taxes not paid prior to that date shall be deemed delinquent, and shall be subject to penalty and interest as the City Council shall provide by ordinance. The City Council may provide discounts for the payment of taxes prior to January 1 in an amount not to exceed those established by the laws of the State of Texas.

(2) Failure to levy and assess taxes through omission in preparing the appraisal rolls shall not relieve the person, partnership, company or other legal entity so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question, omitting penalty and interest.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Delinquency date for payment of taxes, V.T.C.A., Tax Code, sec. 31.02.

Section 7.21. Tax Liens, Liabilities and Suits.

(1) All taxable property located in the City on January 1 of each year shall stand charged from that date with a special lien in favor of the City for the taxes due. All persons purchasing any such property on or after January 1

in any year shall take the property subject to the liens provided above. In addition to the liens herein provided, on January 1 of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due for that year.

(2) The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the City appraisal rolls is insufficient to identify such property, the City shall have the right to plead a sufficient description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owners for such taxes.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law references—Tax liens and personal liability, V.T.C.A., Tax Code, ch. 32; tax collection powers, V.T.C.A., Tax Code, sec. 302.102.

ARTICLE VIII. BOARDS AND COMMISSIONS

Section 8.01. Authority, Composition and Procedures.

(1) The City Council shall create, establish or appoint, as may be required by the laws of the State of Texas or this Charter, or deemed desirable by the City Council, such boards, commissions and committees as it deems necessary to carry out the functions and obligations of the City. The City Council shall, by ordinance or resolution, prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this Charter.

(2) Individuals who are qualified voters in the City may be appointed by the City Council to serve on one (1) or more boards, commissions or committees. Such appointees shall serve at the pleasure of the City Council and may be removed at the discretion of the City Council, except for the members of the Board of Adjustment, who may be removed only for cause. Except as otherwise provided in this Charter, members of any such board, commission or committee shall serve without compensation, but may be reimbursed for actual expenses as approved by the City Council.

(3) All boards, commissions or committees of the City shall, at the discretion of the City Council, keep and maintain minutes of any proceedings held.

(4) No officer or employee of the City nor any person who holds a compensated appointive position with the City shall be a member of any board, commission or committee created or established by state law or this Charter other than in an advisory and/or ex officio capacity except as allowed by state law.

(5) Any member of a board, commission or committee who is absent from three (3) consecutive regular meetings, or twenty-five percent (25%) of regularly scheduled meetings during the twelve (12)-month period immediately preceding and including the absence in question, without explanation acceptable to a majority of the other members, shall be deemed to have forfeited his or her position on the board, commission or committee.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

ARTICLE IX. PLANNING AND ZONING COMMISSION*

Section 9.01. Organization.

(1) There is hereby established a Planning and Zoning Commission, which shall consist of not less than seven (7) members who shall be appointed by the City Council to staggered terms of two (2) years in accordance with

* **State law references**—Zoning commission, V.T.C.A., Local Government Code, sec. 211.007; establishment and authority of zoning board of adjustment, V.T.C.A., Local Government Code, sec. 211.008 et seq.

the existing zoning ordinance. The Commission members shall be qualified City voters. Any vacancy occurring during the unexpired term of a member shall be filled by the City Council for the remainder of the unexpired term. After being duly appointed, the Commission shall elect from its members a Chairman, Vice Chairman and Secretary to serve for one (1) year beginning in that month. Members of the Commission may be removed, with or without cause, by an affirmative vote of a majority of the full membership of the City Council.

(2) The Commission shall meet regularly at such dates and times as may be prescribed by ordinance, resolution or order. The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation.

(3) Four (4) voting Commission members shall constitute a quorum for the purpose of transaction of business.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 9.02. Duties and Powers.

(1) The Commission shall be responsible to and act as an advisory board to the City Council. The Commission shall:

- (A) Review all current and proposed ordinances and amendments pertaining to planning and zoning and make recommendations to the City Council for action to be taken;
- (B) Make proposals to the City Council to amend, extend and add to the Comprehensive Plan for the physical development of the City;
- (C) Keep public records of its resolutions, findings and determinations; and
- (D) Review plats, site plans, landscape plans, and zoning requests and make recommendations to the City Council for their final approval of same.

(2) The Commission shall have full power to:

- (A) Exercise the authority of the Commission as provided by state law, this Charter and City ordinances;
- (B) Make reports and recommendations relating to the Comprehensive Plan and development of the City; and
- (C) Approve plats, site plans and landscape plans if it has been given that authority by the City Council.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 9.03. Procedure.

(1) All rules and regulations adopted by the Commission shall be forwarded in writing to the City Manager who shall submit them to the City Council with the City Manager's recommendations. The City Council may amend, adopt or reject any such rules or regulations. If any rules or regulations should be rejected, the Commission may modify them and submit such modified rules and recommendations to the City Council for consideration.

(2) Should any person on the Commission have a conflict of interest, pursuant to any state laws and/or City ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the Commission, he or she shall openly declare same before discussion proceeds, file any required affidavit, disclose such interest to the other members of the Commission, and he or she shall thereby be prohibited from discussing

and voting on the item, and such person is not considered as present and voting for the purposes of the tally of votes. Commission Members who have a conflict of interest are considered present for purposes of constituting a quorum.

(3) Should any person on the Commission choose to abstain from voting on any question before the Commission, where no conflict of interest exists, the person's vote shall be recorded as a negative vote.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 9.04. The Comprehensive Plan: Procedure and Legal Effect.

(1) The Comprehensive Plan shall include, but not be limited to, the Future Land Use Plan, the Thoroughfare Plan, and Parks and Open Space Plan. The Commission shall seek input from all appropriate boards and commissions in the development of the Comprehensive Plan. Additions to and amendments of the Comprehensive Plan shall be by ordinance or resolution, but before any such revision, the Planning and Zoning Commission shall hold at least one (1) public hearing on the proposed action.

(2) A copy of the proposed revisions to the Comprehensive Plan shall be forwarded to the City Manager who shall submit the proposal to the City Council, together with the City Manager's recommendations, if any. The City Council shall hold a public hearing and shall adopt or reject such proposed revision or any part thereof as submitted within sixty (60) days following its submission by the City Manager. If the proposed revisions or any part thereof are rejected by the City Council, the City Council may request the Planning and Zoning Commission to make other modifications and again forward it to the City Manager for submission to the City Council.

(3) Following the adoption by the City Council of the Comprehensive Plan, and any revisions thereto, it shall serve as a guide for all future City Council action concerning land use and development regulations and expenditures for capital improvements. Any proposal which deviates from the Comprehensive Plan shall not be authorized until and unless the location and extent thereof shall have been submitted to and approved by the Commission. In case of denial of the request to deviate from the Comprehensive Plan, the Commission shall communicate its reasons to the City Council, which shall have the power to overrule such denial with a vote of a majority of the full membership of the City Council, and upon such overruling, the City Council or the appropriate office or department shall have authority to proceed.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Zoning regulations to be in compliance with comprehensive plan, V.T.C.A., Local Government Code, sec. 211.004.

Section 9.05. Board of Adjustment.

(1) The City Council shall appoint a Board of Adjustment. The City Council shall, by ordinance, provide standards and procedures for such Board to hear and determine appeals of administrative decisions, petition for variances in the case of peculiar and unusual circumstances which would create a hardship and prevent the reasonable use of land, and such other matters as may be required by the City Council or by law. Appointment and removal of members of the Board of Adjustment shall be in accordance with the provisions of Article VIII, Sec. 8.01 (2) of this Charter and state law.

(2) The Board shall consist of seven (7) members who shall be appointed by the City Council to staggered terms of two (2) years. The Board shall consist of qualified City voters.

(3) Each case before the Board of Adjustment shall be heard by not less than seventy-five percent (75%) of the members. The concurring vote of seventy-five percent (75%) of the members shall be required to reverse an order, requirement, decision or determination of an administrative official; decide in favor of an applicant on a

matter on which the Board is required to pass under a zoning ordinance; or authorize a variation from the terms of the zoning ordinance.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Establishment and authority of zoning board of adjustment, V.T.C.A., Local Government Code, sec. 211.008 et seq.

ARTICLE X. UTILITY AND PUBLIC SERVICE FRANCHISES*

Section 10.01. Authority.

The City shall have the power to buy, own, sell, construct, lease, maintain, operate and regulate public services and utilities and to manufacture, distribute and sell the output of such services and utility operations. The City shall not supply any utilities service outside the City limits, except by a written contract and/or by ordinance. The City shall have such regulatory and other power as it may now or hereafter be granted under the Constitution and laws of the State of Texas. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 10.02. Ordinance Granting Franchise.

Ordinances granting franchises shall be subject to the terms hereof, and shall contain such terms and conditions as required by the City Council. All franchises shall be exercised in accordance with the terms of the ordinance granting the same and of the Charter. If such franchises shall not be exercised in substantial accordance with the terms hereof and of the ordinance granting the same, the franchise may be cancelled or annulled after notice and reasonable hearing to the holders thereof. The City Council shall by ordinance adopt reasonable rules and regulations for the notice and hearing. No franchise shall be granted for a term of more than twenty (20) years from the date of the grant, renewal or extension of any franchise. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 10.03. Transfer of Franchise.

No public service or utility franchise is transferable, except with the approval of the City Council. No public service or utility franchise may be sold, transferred, assumed or otherwise assigned without the prior written consent of the City Council. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 10.04. Franchise Value Not to be Allowed.

Franchises granted by the City shall be of no monetary value used to calculate rates and charges for public services or utilities within the City or in determining just compensation to be paid by the City for property which the City may acquire by condemnation or otherwise. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 10.05. Right of Regulation.

In granting, amending, renewing and extending public service and utility franchises, the City reserves unto itself all the usual and customary rights, including, but not limited to, the following rights:

- (1) To repeal the franchise by ordinance for failure to begin construction or operation within the time prescribed, or for failure to comply with terms of the franchise;

* **State law references**—Franchise to use streets in municipality, V.T.C.A., Transportation Code, sec. 311.071 et seq.; authority to grant franchise to use or occupy public grounds, V.T.C.A., Local Government Code, sec. 282.003; municipal utilities, V.T.C.A., Local Government Code, sec. 402.001 et seq.

- (2) To require all extensions of service within the City limits to become part of the aggregate property of the service and operate subject to all obligations and reserved rights contained in this Charter. Any such extension is considered included in the terms of the original grant of franchise and shall be terminable at the same time and under the same conditions as the original grant;
- (3) To require expansion and extension of facilities and services and to require maintenance of existing facilities to provide adequate service at the highest level of efficiency;
- (4) To require reasonable standards of service and quality of product and prevent rate discrimination;
- (5) To impose reasonable regulations and restrictions to ensure the safety and welfare of the public;
- (6) To examine and audit accounts and records and to require annual reports on local operations of the public service or utility as may be allowed by law;
- (7) To require the franchisee to restore, at franchisee's expense, all public or private property to a condition as good as or better than before disturbed by the franchisee for construction, repair or removal of facilities;
- (8) To require the franchisee to furnish to the City, within a reasonable time following request of the City, at franchisee's expense, a general map outlining current location, character, size, length, depth, height and terminal of all facilities over and under property within the City and its extraterritorial jurisdiction, if allowed by law; and
- (9) To require compensation, rent or franchise fees to be paid to the City as may be permitted by the laws of the State of Texas.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 10.06. Regulation of Rates.

- (1) The City Council has the power to determine and regulate the rates and charges of all utilities and public services, consistent with state statutes.
- (2) Upon receiving written request from a utility or public service requesting a change in rates, or upon a recommendation from the City that rates for services provided by or owned by the City be changed, the City Council shall call a public hearing for consideration of the change.
- (3) The City, public service or utility must show the necessity for the change by any evidence required by the City Council, including but not limited to, the following:
 - (A) Cost of its investment for service to the City;
 - (B) Amount and character of expenses and revenues connected with rendering the service;
 - (C) Copies of any reports or returns filed with any state or federal regulatory agency within the last three (3) years; or
 - (D) Demonstration that the return on investment, if any, is within state and federal limitations.
- (4) If not satisfied with the sufficiency of evidence, the City Council may hire rate consultants, auditors and attorneys to investigate and, if necessary, litigate requests for rate changes, the expense of which shall be reimbursed to the City by the franchisee.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 10.07. Placement of Wires, Etc., Underground.

To the extent authorized by law, the City Council may require the placing of all wires or the overhead construction of public utilities under the surface of the ground within the business area, fire zones, industrial areas, or any other area of the City as it may deem necessary or desirable, under the surface of the ground under such regulations as may be prescribed by the City Council. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

ARTICLE XI. GENERAL PROVISIONS**Section 11.01. Public Records.**

All records of the City shall be open to inspection subject to state law. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law references—Public access to records, V.T.C.A., Local Government Code, sec. 201.009; public information, V.T.C.A., Government Code, ch. 552.

Section 11.02. Official Newspaper and Website.

The City Council shall declare by resolution or ordinance an official newspaper of general circulation in the City and the official City Website. All ordinances, notices and other matters required by this Charter, City ordinance, or the Constitution and laws of the State of Texas shall be published in the official newspaper and on the official City Website. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 11.03. Oaths.

All elected and appointed officers of the City, before entering into the duties of such office, shall take and sign an oath of office as prescribed for state elective and appointive offices in the Constitution of the State of Texas. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State constitution reference—Oath of office, Texas Constitution, art. 16, sec. 1.

Section 11.04. Severability.

If any section or part of this Charter is held invalid by a court of competent jurisdiction, such holding shall not invalidate or impair the validity, force or effect of any other section or part of this Charter. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 11.05. Wording Interpretation.

The gender of the wording throughout this Charter shall always be interpreted to mean either sex. All singular words shall include the plural and all plural words shall include the singular. All references to the state law or laws of the State of Texas, however expressed in this Charter, shall mean “as presently enacted or as may be amended or superseded.” The use of the word “City” in this Charter shall mean the City of Murphy, Texas, and the use of the word “Charter” shall mean this Home Rule Charter. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 11.06. Amendment of Charter.

Amendments to this Charter may be framed and submitted to the qualified voters of the City in the manner provided by the Constitution and the laws of the State of Texas, or by the City Council on its own motion, but the Charter may not be amended more often than once every two (2) years. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State constitution reference—Adoption or amendment of charter, Texas Constitution, art. 11, sec. 5.

State law reference—Adoption or amendment of charter, V.T.C.A., Local Government Code, sec. 9.001 et seq.

Section 11.07. Charter Review Commission.

(1) The City Council shall appoint a Charter Review Commission at least once every six (6) years. The Charter Review Commission shall consist of at least eleven (11) citizens of the City who shall:

- (A) Inquire into the operation of the City government under the Charter and determine whether any provisions require revision. To this end, public hearings may be held. The Commission may compel the attendance of any officer or employee of the City and require submission of any City records;
- (B) Propose any recommendations it deems desirable to ensure compliance with the Charter; and
- (C) Report its findings and present its recommendations to the City Council.

(2) The City Council shall receive and have published in the official newspaper and website of the City a comprehensive summary of the report presented by the Commission, shall consider any recommendations made, and may order any amendments suggested to be submitted to the voters of the City in the manner provided by state law.

(3) The term of office of the Commission shall be for not more than six (6) months, at the end of which time a report shall be presented to the City Council and all records of proceedings of the Commission shall be filed with the City Secretary and become a public record.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 11.08. City Depository.

The provisions of the laws of the State of Texas governing the selection and designation of the City Depository are hereby adopted as the law governing the selection and designation of a depository of and for the City. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Depositories for municipal funds, V.T.C.A., Local Government Code, ch. 105.

Section 11.09. Licenses.

The City shall have the power to license, levy and collect fees in order to license any lawful business, occupation or calling subject to control pursuant to the police powers of the State of Texas and for any other purpose not contrary to the Constitution and laws of the State of Texas. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Authority to license lawful business or occupation subject to police power, V.T.C.A., Local Government Code, sec. 215.075.

ARTICLE XII. LEGAL PROVISIONS**Section 12.01. Assignment, Execution and Garnishment.**

(1) Real and personal property belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. Funds belonging to the City in the hands of any person, firm or corporation shall not be liable to garnishment, attachment or sequestration; nor shall the City be liable to garnishment, attachment or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatsoever.

(2) The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors, except as provided by the laws of this State or the United States of America.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Authority to provide that municipal funds not subject to garnishment, V.T.C.A., Local Government Code, sec. 101.023.

Section 12.02. Security and Bond.

It shall not be necessary in any action, suit or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City. All such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Cities exempt from security for court costs, V.T.C.A., Civil Practice and Remedies Code, sec. 6.002.

Section 12.03. Notice of Claim.

(1) The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages (“Claimant”) shall, within one hundred eighty (180) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City Secretary a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by the claimant to have seen the incident.

(2) The City shall not be held liable and shall not have waived its immunity from suit on account of any claim for breach of contract unless the person making such complaint (“Claimant”) shall, within thirty (30) days after the time at which it is claimed such breach of contract by the City occurred, file with the City Secretary a written statement, under oath, stating each breach of contract, the place where same occurred, the date of each breach, with a detailed statement of each item of damages, and a list of witnesses having knowledge of any breach.

(3) No claim against the City may be brought by a Claimant prior to Claimant having engaged in non-binding mediation pursuant to Chapter 154, TEXAS CIVIL PRACTICE AND REMEDIES CODE, before bringing suit or an arbitration proceeding. Such mediation must occur within sixty (60) days after Claimant has filed with the City Secretary a written statement as set forth in this section 12.03 above regarding Notice of Claim. Claimant is responsible for scheduling mediation at a mutually agreeable date and time.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

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

Section 12.04. Power to Settle Claims.

The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City, including suits by the City to recover delinquent taxes. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 12.05. Service of Process against the City.

All legal process against the City shall be served upon either the City Secretary or the City Manager. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 12.06. Judicial Notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 12.07. Pending Matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 12.08. Property Not Exempt from Special Assessments.

No property of any kind, by whomsoever owned or held or by whatsoever institution, agency, political subdivision or organization, owned or held, whether in trust or by non-profit organization, or corporation, or by foundation, or otherwise, (except property of the City), shall be exempt in any way from any of the special taxes, charges, levies and assessments, authorized or permitted by this Charter or state law for local improvements for the public welfare. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 12.09. City Council May Require Bonds.

In addition to any provisions contained herein, the City Council may require any City official, department director, or City employee, before entering upon his or her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas and approved by the City Council. The premium of such bond shall be paid by the City. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Official bonds, V.T.C.A., Government Code, ch. 604.

Section 12.10. Disaster Clause.

In case of disaster, when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving members of the City Council, highest surviving City official, and the County Judge of Collin County or his/her designee, must within twenty-four (24) hours of such disaster, appoint a five (5) member commission, which would include any surviving elected City officials, to govern the City, respond to the emergency, and call a City election within fifteen (15) days of such disaster, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Council will never again meet. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Emergency interim public office succession, V.T.C.A., Government Code, ch. 616.

Section 12.11. No Waiver of Immunity.

Nothing in this Charter is intended to waive the City's governmental immunity from suit, liability and/or damages. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

ARTICLE XIII. TRANSITIONAL PROVISIONS**Section 13.01. Effective Date.**

This Charter or any amendments hereto shall take effect immediately following adoption by the voters, as prescribed by state law. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 13.02. Continuation of Elective Offices.

Upon adoption or amendment of this Charter, the present persons filling elective offices on the City Council will continue to fill those offices for the terms for which they were elected. Persons who, on the date this Charter is adopted or amended, are filling appointive positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the City Council or by other means provided in this Charter. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 13.03. Continuation of Operation.

All City ordinances, bonds, resolutions, rules and regulations in force on the effective date of this Charter shall remain in force until altered, amended or repealed by the City Council, and all rights of the City under existing franchises and contracts are preserved in full force and effect. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 13.04. Officers and Employees.

Except as specifically provided, nothing in this Charter shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption or amendment. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

ARTICLE XIV. NEPOTISM, PROHIBITIONS AND PENALTIES**Section 14.01. Nepotism.**

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any Council Member or the City Manager shall be employed by or contracted with the City or the City's corporate affiliate. The nepotism prohibition shall not apply to the following:

- (1) Any person currently employed by the City and employed for six (6) months prior to the person related in the above degree being elected to the City Council or being appointed as City Manager, or
- (2) Any person who serves in an unpaid capacity with the City.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

State law reference—Nepotism, V.T.C.A., Government Code, ch. 573.

Section 14.02. Equality of Rights.

Equality of rights under state and federal law shall not be denied, abridged or compromised with respect to appointment to or removal from any position. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 14.03. Wrongful Influence.

No person who seeks appointment or promotion with respect to any City position shall, directly or indirectly, give, render or pay any money, service or other valuable thing to any person for, or in connection with, his or her test, appointment or promotion with respect to any City position. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 14.04. Wrongful Interference.

No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or promotion with respect to any City position, or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of this Charter. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 14.05. Employee's Political Activities.

No person who holds any compensated non-elective City position shall use their official title or position with the City to solicit any contribution or endorse the candidacy of any candidate for public office in the City. Such person may exercise his/her legal rights to participate in the election process when he/she is not on duty, in a City building, City provided uniform or attire, or using a City vehicle or equipment. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 14.06. Penalties.

Any person who willfully engages in and is found in violation of any of the activities prohibited in Sections 14.02, 14.03, 14.04 or 14.05 of this Article shall be ineligible for appointment or election to a position in the City for a period of five (5) years from that time. If the person is an officer or employee of the City at the time of the violation, he or she shall immediately forfeit his or her office or position, if found by a majority of the full membership of the City Council to be in violation of such prohibited activities. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

Section 14.07. Conflict of Interest.

(1) All members of the City Council and all members of any board or commission of the City shall be subject to the provisions of Chapters 171 and 176 of the TEXAS LOCAL GOVERNMENT CODE regarding conflict of interest.

(2) Any willful violation of this section shall constitute malfeasance in office and any person found guilty thereof shall thereby forfeit his or her office or position.

(3) Any violation of this section with the knowledge, actual or constructive, of the person or corporation contracting with the governing body of the City shall render the contract or transaction involved voidable by the City Manager or the City Council by the affirmative vote of a majority of the full membership of the City Council.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

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; public disclosure, V.T.C.A., Government Code, ch. 553.

Section 14.08. No Officer or Employee to Accept Gifts, Etc.

No elected official or employee of the City shall ever accept, directly or indirectly, any gift, favor or privilege of more than a nominal sum during the term of office of such elected official, or during the employment of such employee, and it was not given in exchange for any exercise of official discretion. The City Council shall adopt an ethics ordinance. (Ordinance 10-11-861, ex. B, adopted 11/15/10)

CHAPTER 1

GENERAL PROVISIONS

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ARTICLE 1.01 CODE OF ORDINANCES*

Sec. 1.01.001 Adoption

There is hereby adopted the Code of Ordinances of the City of Murphy, Texas, as compiled, edited and published by Franklin Legal Publishing, Inc. (Ordinance adopting 2015 Code)

Sec. 1.01.002 Title of code

The ordinances embraced in this and the following chapters and sections shall constitute and be designated “The Murphy City Code” and may be so cited. (1993 Code, sec. 10.01; 2006 Code, sec. 1-1)

Sec. 1.01.003 Definitions and rules of construction; rules of interpretation

(a) Definitions and rules of construction. Unless otherwise provided herein, or by law or implication required, the same rules of construction, definitions, and application shall govern the interpretation of this code as those governing the interpretation of state law. Words and phrases shall be taken in their plain or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import. For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

City, municipal corporation, municipality. The terms “city,” “municipal corporation” and “municipality” mean the City of Murphy, Texas.

Code or this code. The term “code” or “this code” means this city code as modified by amendment, revision, and adoption of new chapters or sections, unless within the context used it refers to a technical code.

County. The term “county” means Collin County, Texas.

May. The term “may” means the act referred to is permissive.

State law reference—Construction of word “may,” V.T.C.A., Government Code, sec. 311.016.

Month. The term “month” means a calendar month.

State law reference—“Month” defined, V.T.C.A., Government Code, sec. 312.011.

Oath. The term “oath” means 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.

Officer, office, employee, commission, or department. The terms “officer,” “office,” “employee,” “commission,” and “department” mean an officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

Person. The term “person” means and extends to and includes person, persons, firm, corporation, co-partnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the term “person” or “whoever” as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

State law reference—“Person” defined, V.T.C.A., Government Code, sec. 311.005.

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

Preceding or following. The term “preceding” or “following” means next before or next after, respectively.

State law reference—“Preceding” defined, V.T.C.A., Government Code, sec. 312.011.

Shall. The term “shall” means the act referred to is mandatory.

State law reference—Construction of words “must” and “shall,” V.T.C.A., Government Code, sec. 311.016.

Signature or subscription. The term “signature” or “subscription” means a mark when the person cannot write.

State law reference—“Signature” and “subscribe” defined, V.T.C.A., Government Code, sec. 312.011.

State. The term “state” means the State of Texas.

Written. The term “written” means 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 term “year” means a calendar year, unless otherwise expressed; equivalent to the words “year of our Lord.”

State law reference—“Year” defined, V.T.C.A., Government Code, sec. 312.011.

(b) Rules of interpretation. The construction of all ordinances of this city shall be by the following rules, unless such construction is plainly repugnant to the intent of the city council or of the context of the same ordinance:

- (1) And; or. Either conjunction shall include the other as if written “and/or,” if the sense requires it.
- (2) Acts by assistants. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.
- (3) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

State law reference—Tense, number and gender, V.T.C.A., Government Code, sec. 312.003.

- (4) General term. A general term following a specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

(1993 Code, secs. 10.02, 10.05, 10.06; 2006 Code, secs. 1-2, 1-5)

Sec. 1.01.004 Application to future ordinances

All provisions of this article compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided. (1993 Code, sec. 10.03; 2006 Code, sec. 1-3)

Sec. 1.01.005 Captions

Headings and captions used in this code other than the chapter, article, division and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section. (1993 Code, sec. 10.04; 2006 Code, sec. 1-4)

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

Sec. 1.01.006 Severability

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application. (1993 Code, sec. 10.07; 2006 Code, sec. 1-6)

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

Sec. 1.01.007 Repeal or modification of ordinance

(a) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(b) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(c) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

(1993 Code, sec. 10.16; 2006 Code, sec. 1-15)

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

Sec. 1.01.008 Amendments or additions to code

(a) 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 specified amendments of, or additions to, “The Murphy City Code” and when done shall be made by reference to the section of the code which is to be amended, and additions shall bear an appropriate designation of chapter and section.

(b) Sections 24.01.001, 24.01.002, 24.03.051, 24.03.101, 24.03.151, 24.03.201, 24.03.251, 24.03.301, 24.03.351 and 8.02.002 shall reference such other separate volume or volumes which by such reference shall be made a part of this code the same as if said separate volume or volumes were set out herein verbatim.

(1993 Code, sec. 10.17; 2006 Code, sec. 1-16)

Sec. 1.01.009 General penalty

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 wherever in this code or an ordinance the doing of an act is required or the failure to do any act is declared to be unlawful, and the rule, ordinance or police regulation governs fire safety, zoning, public health and sanitation, other than vegetation and litter violations, the violation of any such provision of this code or any such ordinance shall be punished by a fine not exceeding \$2,000.00; in the event the rule, ordinance or police regulation pertains to vegetation and litter violations or other violations in which 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 not exceeding \$500.00; provided, however, that no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. (1993 Code, sec. 10.99; 2006 Code, sec. 1-19; Ordinance 276 adopted 10/15/87)

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.

Sec. 1.01.010 Culpable mental state

(a) In any prosecution filed under a provision of this code or any ordinance of the city which expressly requires proof that the actor engaged in conduct intentionally, knowingly, recklessly, or with criminal negligence, then a person does not commit an offense unless he is shown to have engaged in such conduct as the definition of the offense requires.

(b) Whenever in this code or in any ordinance of the municipality an act or a failure to act is prohibited, or is made or declared to be unlawful, or an offense, or a misdemeanor, and such provision does not expressly require proof of a culpable mental state, proof of a culpable mental state is not required for conviction of such offense, it being the intent of the city to dispense with the requirement of any culpable mental state in prosecutions filed under such provisions of this code and other ordinances of the city; provided, however, that if such offense is punishable by a fine exceeding the amount authorized by V.T.C.A., Penal Code sec. 12.23, a person does not commit such offense unless he is shown to have recklessly engaged in such conduct as the definition of the offense requires.

(c) Proof of a higher degree of culpability than that charged constitutes proof of the culpability charged.

(1993 Code, sec. 10.19; 2006 Code, sec. 1-18)

State law reference—Requirement of culpability, V.T.C.A., Penal Code, sec. 6.02.

Sec. 1.01.011 Reference to other sections

Whenever in one section reference is made to another section of this code, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision. (1993 Code, sec. 10.08; 2006 Code, sec. 1-7)

Sec. 1.01.012 Reference to offices

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary. (1993 Code, sec. 10.09; 2006 Code, sec. 1-8)

Sec. 1.01.013 Errors and omissions

If a manifest error is discovered, consisting of the misspelling of any words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error. (1993 Code, sec. 10.10; 2006 Code, sec. 1-9)

Sec. 1.01.014 Official time

The official time, as established by applicable state/federal laws, shall be the official time within this city for the transaction of all municipal business. (1993 Code, sec. 10.11; 2006 Code, sec. 1-10)

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

Sec. 1.01.015 Reasonable time

(a) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(b) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is Sunday, it shall be excluded.

(1993 Code, sec. 10.12; 2006 Code, sec. 1-11)

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

Sec. 1.01.016 Ordinances repealed

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code. (1993 Code, sec. 10.13; 2006 Code, sec. 1-12)

Sec. 1.01.017 Ordinances unaffected

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication. (1993 Code, sec. 10.14; 2006 Code, sec. 1-13)

Sec. 1.01.018 Effective date of ordinances

All ordinances passed by the city council requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided. (1993 Code, sec. 10.15; 2006 Code, sec. 1-14)

Sec. 1.01.019 Section histories; statutory references

(a) History notes. As histories for the code sections, the specific number and passage date of the original ordinance, and the amending ordinances, if any, are listed following the text of the code section. Example: (Ordinance 10 adopted 5/13/60; Ordinance 15 adopted 1/1/70; Ordinance 20 adopted 1/1/80; Ordinance 25 adopted 1/1/85)

(b) Statutory citations. If a statutory cite is set forth as a “State law reference” following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

Sec. 18.02.006 Exemption of tangible personal property in transit

The goods-in-transit, as defined in Texas Tax Code section 11.253(a)(2), as amended by Senate Bill 1, enacted by the 82nd Texas Legislature in special session, shall not be subject to taxation by the city. (Ordinance 11-12-901 adopted 12/6/11)

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

(1993 Code, sec. 10.18; 2006 Code, sec. 1-17)

ARTICLE 1.02 CITY COUNCIL *

Division 1. Generally

Sec. 1.02.001 Terms of office

All members of the city council shall hold office in accordance with the provisions of the city charter. (1984 Code, sec. 1-3-1; 1993 Code, sec. 31.01; 2006 Code, sec. 2-21; Ordinance 26 adopted 2/6/73; Ordinance 07-02-716, sec. 2, adopted 2/19/07)

Charter reference—Selection and term of mayor and council members, sec. 3.01.

Secs. 1.02.002–1.02.030 Reserved

Division 2. Governance Policy and Rules of Procedure[†]

Sec. 1.02.031 Introduction

(a) The municipal government provided by the city charter, hereinafter the “charter,” shall be known as the “council-manager form of government.” Pursuant to its provisions, and subject only to the limitations imposed by the state constitution, the statutes of this state, and by the charter, all powers of the city shall be vested in an elected council, hereinafter referred to as the “city council” or “council,” which shall enact local legislation, adopt budgets, determine policies, and appoint city officials as noted in the charter, including the city manager, who in turn shall be held responsible to the city council for the execution of the laws and the administration of the government of the city. All powers of the city shall be exercised in the manner prescribed by the charter, or if the manner is not prescribed, then in such manner as may be prescribed by ordinance, the state constitution, or by the statutes of the state.

(b) The city council is the governing body for the city. Therefore, it must bear the initial responsibility for the integrity of governance. Pursuant to section 3.13 of the charter, the council shall determine its own rules of order and business. The council is responsible for its own development, its responsibilities, its own discipline, and its own performance. The development of this policy is designed to ensure effective and efficient governance.

* **Charter references**—Form of government, sec. 1.01; city council, art. III; nominations and elections, art. V; recall, initiative and referendum, art. VI; disaster clause, sec. 12.10; conflict of interest, sec. 14.07; acceptance of gifts, etc., sec. 14.08.

[†] **Charter references**—Meetings of city council, sec. 3.09; rules of procedure, sec. 3.13; investigations by council, sec. 3.17.

(c) This policy addresses mayor and council relations, council and staff relations, council and city attorney, engineer and municipal judge relations, council and media relations, roles and meetings. By adopting this policy, we, as members of the city council, acknowledge our responsibility to each other, to our professional staff and to the public. This policy will be reviewed and adopted on an annual basis.

(2006 Code, sec. 2-601; Ordinance 10-11-862 adopted 11/15/10)

Sec. 1.02.032 Mission

(a) The city will provide for the health, welfare and safety for our citizens, neighbors and employees with a commitment to communicate and serve all with respect, dignity and courtesy, focusing on superior customer service. We will listen to our citizens and guests, address their needs, and provide a safe and appealing place to work, play and call home.

(b) In order to ensure proper discharge of duties for the improvement of democratic local government, members of the city council will display behavior that demonstrates independent, impartial review of all matters addressed by them, and be duly responsible to the citizens of the city and each other in their relationships.

(2006 Code, sec. 2-602; Ordinance 10-11-862 adopted 11/15/10)

Sec. 1.02.033 Information

(a) On major policy issues, the city manager shall provide briefing material to the council in advance of council consideration of the policy alternatives. Whenever possible, the management report shall be presented as a discussion item at a regular city council meeting. The policy briefing item will be placed on the next city council meeting agenda for council consideration or a work session will be scheduled.

(b) All council members should have the same information with which to make decisions. When one council member has an information request, the response will be shared with all members of the council so that each member may be equally informed.

(c) Staff should provide the city council with information on agenda items as far in advance of the meeting as possible. Staff should avoid giving information at the meeting on issues that will be considered during the meeting. In order to provide the council with timely information, please strive to submit questions on council agenda items ahead of the meeting. City council members are encouraged to submit their questions on agenda items to the city manager as far in advance of the meeting as possible so that staff can be prepared to respond at the council meeting.

(d) The city manager shall provide operational updates to the city council informing them of the progress on projects, items of concern, city events, and financial and legal issues currently pending before the city. The update shall be by email and no less than twice a month.

(e) Confidential information.

- (1) In general, a member of the city council is entitled to review and inspect all records of the city, including confidential information, in their official capacity. A city council member acts in his or her "official capacity" in performing the duties and exercising the powers of the office of a city council member as contained and enumerated in the city charter, section 3.07, under the laws of the state, as this term is defined in V.T.C.A. Civil Practices and Remedies Code, sec. 101.053(a), and under other applicable law. If the records contain confidential information, such as certified agendas or tape recordings of closed meetings, then the city council member will not be entitled to make a copy of the information. "Confidential information" means any information that a city council member is entitled to because of his official position but otherwise is not available to the

public generally without an open records request pursuant to the provisions of the Texas Public Information Act (the "Act"), V.T.C.A. Government Code, ch. 552, and/or is not available to the public under the Act. Notwithstanding the foregoing, a city council member shall not:

- (A) Use his or her position to obtain confidential information about any person or entity except in his or her official capacity;
 - (B) Disclose any confidential information gained through the city council member's office or position concerning property, operations, policies, personnel or affairs of the city;
 - (C) Use such confidential information to advance any economic interest or personal interest of the city council member or confer any benefit to the city council member, or their family member.
- (2) During an investigation conducted by the city council as authorized by the city charter or any other investigation or proceeding regarding whether there has been a violation of the city charter or code of ethics to any investigatory, administrative or judicial authority, city council members may receive or disclose confidential information.
 - (3) In the event that a city council member requests to review, inspect or copy any confidential information, that request shall be made to the mayor, who shall place the issue on a city council agenda for discussion and/or action of the city council.
 - (4) Under section 3.07 of the city charter, the city council may collectively investigate matters in their official capacity; other than this procedure a city council member may not individually conduct an investigation.

(2006 Code, sec. 2-603; Ordinance 10-11-862 adopted 11/15/10; Ordinance 12-03-908, sec. 2, adopted 3/6/12)

Sec. 1.02.034 Roles

(a) The mayor shall preside at meetings of the council, and shall be recognized as head of city government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties. The mayor may participate in the discussion of all matters coming before the council. The mayor shall be entitled to vote as a member thereof on legislative or other matters, unless prohibited by law, and shall have no power of veto.

(b) The council shall elect from among the council members a mayor pro tempore who shall act as mayor during the absence or disability of the mayor. The council shall elect from among the council members a deputy mayor pro tempore who shall act as mayor pro tempore during the absence or disability of the mayor pro tempore.

(c) As head of city government for ceremonial purposes, the mayor may issue and present proclamations and recognitions, and attend other ceremonial functions on behalf of the city. Council members may initiate, through the mayor or by a majority vote of the council, similar items of recognition. Major community events sponsored by the city shall be a policy decision of the council.

(d) The mayor shall preserve order and decorum and shall require council members engaged in debate to limit discussion to the question under consideration.

(e) The mayor is the spokesperson for the council on all official positions taken unless absent, at which time the mayor pro tem or the deputy mayor pro tem will assume the role.

(f) The mayor will encourage all council members to participate in council discussion and make sure all positions are adequately presented before an item is brought to vote.

(g) The mayor may appoint a subcommittee made up of council members and staff to evaluate policy alternatives and to recommend policy direction to the full council. Subcommittee reports shall be made under the standard item for such reports at work sessions and regular meetings. Council deliberation on the subcommittee recommendations shall occur at regular sessions.

(2006 Code, sec. 2-604; Ordinance 10-11-862 adopted 11/15/10)

Charter reference—Mayor, mayor pro tem and deputy mayor pro tem, sec. 3.05.

Sec. 1.02.035 Meetings

(a) Regular meetings. The council shall meet regularly at such times as prescribed by the charter, but no less frequently than once each month, and the regular meetings will begin at 6:00 p.m., unless postponed or canceled for valid reason(s). Regular meetings will be open to the public in accordance with the Texas Open Meetings Act.

(b) Special meetings. Special meetings may be held on any day of the week to consider items that require action prior to the next regularly scheduled meeting and may be called upon the request of the mayor or city manager. Special meetings will be open to the public in accordance with the Texas Open Meetings Act.

(c) Work sessions. Work sessions will be held as needed and used to allow the city council to discuss policy or budgetary items. Work sessions will be open to the public in accordance with the Texas Open Meetings Act.

(d) Executive sessions. The city council may meet in executive session in compliance with the Texas Open Meetings Act. A final action, decision or vote on a matter deliberated in an executive session will be made in an open meeting for which proper notice is provided. All discussions in executive session shall remain confidential. Executive sessions are not open to the public in accordance with the Texas Open Meetings Act.

(e) Public notice. The agenda for all regular meetings, special meetings, work sessions, and executive sessions and the notice listing items to be considered shall be posted on the city's official bulletin board and web page in accordance with the Texas Open Meetings Act, at least 72 hours prior to the posted meeting.

(f) Attendance. Council members are expected to attend all meetings and stay in attendance during each meeting. No member shall leave a meeting without advising the presiding officer.

(g) Punctuality and recess. Members of the city council shall arrive at meetings at or before the scheduled time for the meeting to begin. At the beginning of each meeting, the chair shall announce those members absent and shall announce the arrival time of any member arriving after the beginning of any meeting. The chair may at any time, upon their own motion, or upon the request of a council member, declare a recess in the meeting. The time limit of the recess shall be strictly followed.

(h) Conflict of interest. A council member prevented from voting due to a conflict of interest shall leave the dais during the debate, shall not vote on the matter, and shall otherwise comply with the state law and the charter and ordinances concerning conflicts of interest. Any council member filing a conflict of interest affidavit on an executive session item shall not confer with staff, the city attorney, council members or the mayor regarding that matter.

(i) City council members.

(1) During city council meetings and work sessions, council members shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the rules of the city council.

(2) A council member shall confine discussion to the question under debate, avoid the discussion of personalities and the use of inappropriate language, and refrain from personal attacks or from

publicly criticizing a citizen, an individual employee or an operational issue. Criticism is differentiated from questioning facts or the opinion of staff.

- (3) When there is more than one speaker from the floor on the same subject, council members shall delay their comments until after all speakers on the subject have been heard.
- (4) The chair shall state all questions submitted for a vote and announce the result.
- (5) The professional staff is expected to provide its best recommendations on issues, and provide information about alternatives to staff recommendations as appropriate, as well as pros and cons for recommendations and alternatives. Sometimes staff may make recommendations that may be unpopular with the public and council members. Staff respects the role of the council as policy makers for the city and understands that the council must consider a variety of opinions and community values in their decision-making in addition to staff recommendations.

(j) Administrative staff.

- (1) Members of the administrative staff and employees of the city shall observe the same rules and decorum applicable to members of the city council.
- (2) Although the presiding officer has the authority to preserve decorum in meetings, the city manager also is responsible for the orderly conduct and decorum of all city employees under the city manager's direction and control.
- (3) The city manager shall take such disciplinary action as may be necessary to ensure that decorum is preserved at all times by city employees in meetings.
- (4) All persons addressing the city council, including the city manager, shall be recognized by the presiding officer and shall limit remarks to the matter under discussion.
- (5) All remarks and questions addressed to the city council shall be addressed to the city council as a whole and not to any individual member.

(k) Citizens and visitors.

- (1) Citizens and visitors are welcome and encouraged to attend all public meetings of the city and will be admitted to the chamber or meeting room up to the fire safety capacity of the room.
- (2) Everyone attending the meeting will refrain from private conversations and turn mobile phones to vibrate while the city council is in session.
- (3) Citizens and visitors attending city council meetings and work sessions shall observe the same rules of propriety, decorum and good conduct applicable to members of the city council. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the city council or while attending the meeting or work session shall be removed from the room if so directed by the presiding officer. The person shall be barred from further audience before the city council during that session. If the presiding officer fails to act, any member of the council may move to require enforcement of the rules, and the affirmative vote of a majority of the council shall require the presiding officer to act.
- (4) Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the presiding officer, who may direct the removal of offenders from the room. In case the presiding officer shall fail to act, any member of the council may move to require enforcement of the rules and the affirmative vote of the majority of the council shall require the presiding officer to act.

- (5) No placards, banners, or signs will be permitted in the city council chamber or in any other room in which the council is meeting. Exhibits, displays and visual aids used in connection with presentations, however, are permitted. Video presentations requested by a citizen or visitor as visual aids will not be broadcast over any city public access cable channel.
 - (6) The city manager shall act as sergeant-at-arms for the city council and shall furnish whatever assistance is needed to enforce the rules of the city council.
- (l) Agenda.
- (1) The mayor and/or city manager shall set the agenda. Any council member may request an item be placed on a future agenda. The requested agenda item shall be included on an agenda no later than the second regularly scheduled meeting (approximately 30 days) after receiving the request unless otherwise agreed upon by the city council.
 - (2) The “consent agenda” consists of operational items and previously discussed items that do not require deliberation by the council.
 - (3) Any council member may remove an item from the consent agenda for separate discussion and consideration of action.
 - (4) Any item may be deferred or postponed to a later date by the mayor if there is no objection. If a member of city council objects, a majority vote of the council is required to defer or postpone the item.
 - (5) The city manager may remove an item from the consent agenda items by providing notice to the city council prior to the convening of the meeting. The chair shall announce the removal of an item from the consent agenda prior to requesting a motion.
- (m) Speakers.
- (1) A person wishing to address the city council must first complete an appearance card and register it with the city secretary, before addressing the council. The following information must be provided on the card: name, residence address, daytime telephone number, and the subject matter to be addressed by providing the agenda item number. The council welcomes public comments and understands that the speaker might not have been expecting to address the council; however, procedure must be followed before addressing the council. Appearance cards will be available at the chamber entrance and at the public podium.
 - (2) Speakers must address their comments to the presiding officer rather than to individual council members or staff.
 - (3) Speakers must keep their remarks specific to the item being considered by the city council. If the speaker is addressing the city council under the “public comments” section, the speaker may address any item not slated for discussion on the agenda.
 - (4) Murphy citizens will be allowed to speak before nonresidents.
 - (5) A person who registers to speak on a public hearing item or during the public comment section will be called on at that time.
 - (6) All speakers will have an opportunity to address the council. All speakers will be asked to keep comments to a reasonable amount of time as determined by the chair, usually less than five minutes, depending on the number of speakers waiting to address the city council. A majority vote of the city council can force the chair to end the speaker’s comments or allow additional time.

- (7) For called public hearings, the applicant will be allowed a specific amount of time to make a presentation.
 - (8) In accordance with the Texas Open Meetings Act, the city council will not discuss or consider any item addressed during the public comment section. Council members shall limit their response to public comment to a statement of specific factual information given in response to the inquiry or comment, or a recitation of existing policy in response to the inquiry or comment. Any deliberation of or decision about the subject of the public inquiry or comment shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.
 - (9) Whenever it is necessary for a speaker to use an interpreter to translate comments to the city council, the time required for the translation will not be counted against the designated time allotted for the speaker to address the city council.
- (n) Motions.
- (1) The city council may discuss an agenda item prior to a motion being made. This allows a motion to be crafted that will incorporate the issues discussed.
 - (2) A motion made and seconded will be considered the main motion. Any council member may make a motion to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion.
 - (3) A motion may be withdrawn or modified by its mover without asking permission until the motion is voted upon. If the mover modified the motion, the council member who seconded the motion may withdraw the second.
 - (4) A motion to reconsider any action of the city council must be made no later than prior to the conclusion of the next regularly scheduled meeting of the city council. Such a motion may only be made by a council member who voted with the prevailing side. The motion to reconsider may be seconded by any member. No question shall be twice reconsidered except by unanimous vote of the city council, except that action relating to any contract may be reconsidered at any time before the final execution thereof.
 - (A) If a motion to reconsider is made at the same meeting at which the matter was acted upon, the motion may be heard and voted upon and the original action on the matter is set aside. Deliberation may then resume on the matter at that same meeting.
 - (B) If a motion to reconsider is made at the next meeting after the matter was acted upon, the motion to reconsider may be heard and voted upon and the original action on the matter is not set aside. Deliberation may not resume on the matter, but it shall be placed on the next available agenda for deliberation.
 - (C) If a motion to reconsider a zoning ordinance is made after the closing of the public hearing and action on the ordinance, the motion to reconsider may be heard and voted upon and the original action on the matter is not set aside. Deliberation may not resume on the matter until proper notice of a public hearing in accordance with state law is provided.
 - (5) If any two council members request that discussion cease during a work session, the mayor shall poll the council to obtain a consensus to continue or cease discussion.
- (o) Suspension of rules. Any provision of these rules not governed by the city charter, the city code, or state or federal law may be temporarily suspended by a majority vote of the members of the city council present. The vote on any such suspension shall be taken by yeas and nays and entered upon the record.

(p) Amendment of rules. These rules may be amended or new rules adopted, by a majority vote of the members of the city council.

(q) Failure to comply. A failure to comply with these rules does not invalidate any otherwise lawful act of the council.

(r) Tabling. An item under consideration may be tabled until a later point in the meeting.

(s) Postponement. An item may be postponed until a future meeting, a specific future date, or until a specific outside action occurs. Items may also be postponed indefinitely, which means the item is dead and cannot be brought back before the city council unless there is a change.

(2006 Code, sec. 2-605; Ordinance 10-11-862 adopted 11/15/10)

Charter reference—Meetings of city council, sec. 3.09; quorum, sec. 3.10; rules of procedure, sec. 3.13.

State law reference—Open meetings, V.T.C.A., Government Code, ch. 551.

Sec. 1.02.036 Access statement

(a) The city manager is responsible to maintain physical security for all city facilities. Physical security is a balancing act between allowing appropriate access and denying access that might compromise city operations. It is the desire of the city to allow the public access to the city facilities during regular business hours, and allow council members restricted access after regular business hours.

(b) Members of the city council shall be issued a city photo identification card and an electronic badge access card. After regular business hours, the access badge card may be utilized to access the lobby of the police and fire buildings, city hall second floor lobby and the first floor of city hall with the exception of the computer room and records room. A council member must be accompanied by the city manager or their designee if access to any other area after regular business hours is requested. Council members will be respectful of the demands made upon the city manager or their designee to respond to said request.

(2006 Code, sec. 2-606; Ordinance 10-11-862 adopted 11/15/10)

Sec. 1.02.037 Public contact and media relations

(a) Representative government is only successful when the citizens are kept informed and educated about the issues facing their municipality; consequently, it is imperative that the media play an important role in the council-manager-media relations. 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 positive relationships with print, radio, and television reporters. The mayor, the city council and the city manager recognize that the news media provide an important link between the council and the public. It is the council's desire to establish a professional working relationship to help maintain a well-informed and educated citizenry.

(b) All reporters will receive an agenda in advance and will be furnished support material needed for clarification if requested.

(c) The city manager or his designee is the city's official representative to the media.

(d) The mayor or city council by a majority vote may designate an alternative media representative.

(2006 Code, sec. 2-607; Ordinance 10-11-862 adopted 11/15/10)

Sec. 1.02.038 Planning

The mayor and council are responsible for establishing a vision for the city and planning for its future.

- (1) On an annual basis, the mayor, the city council and the city manager shall hold a minimum of one strategic planning session wherein they set priorities, goals and objectives. The goals and objectives shall address short-term and long-term needs, including financial, of the city.
- (2) Policy direction shall be consistent with the strategic goals and objectives. Sufficient time and consideration should be given to policy alternatives to ensure that decisions are made consistent with the long-term vision and budgetary measures.

(2006 Code, sec. 2-608; Ordinance 10-11-862 adopted 11/15/10)

Sec. 1.02.039 Council/staff relations

(a) The city has a council-manager form of government. Basically, with this structure, the city council's role is to establish city policies and priorities. The council appoints a city manager to implement those policies and undertake the administration of the organization. The city manager is appointed by the city council to enforce its laws, to direct the daily operations of city government, to prepare and monitor the annual budget, and to implement the policies and programs initiated by the city council. The city manager is responsible to the city council, rather than to individual council members, and directs and coordinates the various departments. The city manager is responsible for appointing all department directors, except as provided by the charter, and authorizing all other personnel positions. The city council authorizes positions through the budget process; based upon that authorization, the city manager makes the appointments.

(b) The city council shall direct comments, correspondence and concerns about city operations to the city manager's office. Citizens' concerns, comments and correspondence regarding city operations received by council members shall be forwarded to the city manager for appropriate staff action and a timely response.

(c) The city council may inquire of the city manager about the conduct of any office, department or agency of the city and make investigations as to municipal affairs, per the city charter. In no manner, either directly or indirectly, shall a council member become involved in, or attempt to influence, personnel matters that are under the direction of the city manager. Nor shall the city council be involved in, or influence, the purchase of any supplies beyond the requirements of the city purchasing procedures. Notwithstanding the foregoing, any member of the city council, may, prior to or during a meeting, make inquiry to a department head on an agenda item posted for the next council meeting. The council member will carbon copy (cc) the city manager on any email communication to a staff member.

(d) Documents provided to one council member shall also be distributed to all other members of the council. The city manager shall prepare and submit to the council prior to the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year. The city manager shall keep the council advised of the financial condition and future needs of the city and make such recommendations that may seem desirable.

(e) 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 manager or the manager's designated assistants for staff consideration prior to the council meeting. This allows staff the time to address the council members' concerns and provide all council members with the additional information.

(f) Seeking political support from staff is not appropriate. The city is a nonpartisan local government. Neither the city manager nor any other person in the employ of the city shall take part in securing or contributing any

money toward the nomination or election of any candidate for a municipal office. In addition, some professionals have professional codes of ethics, which preclude politically partisan activities or activities that give the appearance of political partisanship.

(2006 Code, sec. 2-609; Ordinance 10-11-862 adopted 11/15/10)

Charter reference—Investigations by city council, sec. 3.17.

Sec. 1.02.040 Council relations with city attorney

(a) The city attorney is appointed by the city council. The city attorney is the legal advisor for the council, its committees, commissions and boards, the city manager, and all city officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the city.

(b) The general legal responsibilities of the city attorney are to:

- (1) Provide legal assistance necessary for formulation and implementation of legislative policies and projects;
- (2) Represent the city's interest, as determined by the city council, in litigation, administrative hearings, negotiations, and similar proceedings;
- (3) Prepare or approve as to form ordinances, resolutions, contracts, and other legal documents to best reflect and implement the purposes and intentions of the city council; and
- (4) Keep the city council and staff apprised of court rulings and legislation affecting the legal interest of the city.

(c) No council member shall request or direct the city attorney to initiate any action or prepare any report that is significant in nature, or initiate any significant project or study, without the consent of a majority of the council. The city attorney shall determine whether or not a matter is significant. The city manager shall be informed of any project, study, opinion or report prepared by the city attorney as requested by the city council. The city manager shall not prevent council members from communication with the city attorney.

(d) It is important to note that the city attorney does not represent individual members of the council, boards, commissions or employees, but rather the city as a whole.

(2006 Code, sec. 2-610; Ordinance 10-11-862 adopted 11/15/10)

Charter reference—City attorney, sec. 4.04.

Sec. 1.02.041 Staff and council relations with boards, commission and committees

(a) Staff support and assistance may be provided to advisory boards, commissions, and committees. Advisory bodies, however, do not have supervisory authority over city employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and, ultimately, the city manager. The members of the commissions, boards, or committees are responsible for the functions of the advisory body. The chairperson is responsible for committee compliance with the municipal code and/or bylaws. Staff members are to assist the advisory boards to ensure appropriate compliance with ordinances, the charter, and state and local laws and regulations.

(b) Staff support includes: (i) preparation of an agenda; (ii) preparation of reports providing a brief background of the issues, a list of alternatives, recommendations, and appropriate backup materials, if necessary; and (iii) preparation of minutes of advisory body meetings. Advisory body members should have sufficient information to reach decisions based upon a clear explanation of the issues. It is important to note that city staff seeks to not influence boards, commissions and committees, but provide objective information to help the

boards, commissions and committees in their decision-making process. Staff should provide information on options considered along with a summary of pros and cons of each option. Any prior direction by the city council on a particular issue should be provided by staff to any board, commission or committee considering the issue.

(c) The role of the city's boards, commissions and committees is to perform the specific functions established in state statutes, city ordinances, resolutions, or minute orders as applicable and to advise the city council about the topics assigned.

(d) If a city council member should attend a meeting of a board, commission or committee, the member shall not take part in the meeting nor address the board in any manner whether by questions or statements. A city council member shall not attempt to influence the decisions of boards, commissions and committees, either directly or indirectly, nor express an opinion to a board, commission or committee about its actions unless at a city council meeting. Boards that require a city council member to be a member of that board are exempt from this policy provision.

(e) All instructions to boards, commissions and committees by the city council shall be in writing.

(2006 Code, sec. 2-611; Ordinance 10-11-862 adopted 11/15/10)

Charter reference—Boards and commissions, art. VIII.

Sec. 1.02.042 Violations and sanctions

(a) Any city council member who violates this division may be subject to sanctions imposed pursuant to section 2.06.017 of the Code of Ordinances of the city.

(b) The following sanctions, as similarly set out in section 2.06.017 of the code of ethics, may be imposed for violations of this division:

- (1) A letter of notification is an appropriate sanction when the violation is clearly unintentional, or when the conduct of the person complained against was done in reliance upon an opinion of the city attorney.
- (2) A letter of admonition is the appropriate sanction when the ethics review commission ("commission") finds the violation is minor and/or may have been unintentional, but calls for a more substantial response than a letter of notification.
- (3) A letter of reprimand is the appropriate sanction when the commission finds a serious violation has been committed intentionally or knowingly or through disregard of this ordinance.
- (4) A letter of censure is the appropriate sanction when the commission finds that a serious violation has occurred and/or more than one serious violation or repeated serious violations of this division have been committed by a city official.
- (5) Copies of all sanction letters issued by the commission under this section shall be sent to the city council.

(2006 Code, sec. 2-612; Ordinance 12-03-908, sec. 2, adopted 3/6/12)

APPENDIX

From the League of Kansas Municipalities

These tips are non-binding and not policies, but are good starting points for a successful council-manager form of government.

Tips for Successful Public Service

- * Learn all you can about your city, its operation, its financing. Do your homework. Know your city ordinances.
- * Devote sufficient time to your job and to studying the present and future problems of your community.
- * Don't burn yourself out on the little things. Save some energy for the important matters.
- * Don't act as a committee of one. Governing a city requires a team effort - practically and legally.
- * Don't let honest differences of opinion degenerate into personality conflicts.
- * Remember that you represent all the people of your community, not just neighbors and friends.
- * Take your budget preparation job seriously. It determines what your city does or doesn't do for the coming year and will influence decisions and actions in future years as well. The budget is the most important policy development tool available to govern a city.
- * Establish policy statements. Written policy statements let the public and the city staff know where they stand. They help the city council govern, and writing them provides a process to develop consensus. "That's the way it's always been done" is not good enough either to stay out of trouble or to get things done.
- * Make decisions on the basis of public policy and be consistent. Treat similar situations similarly.
- * Don't be stampeded into action. Don't be misled by the strong demands of special interest groups who want it done now, their way. Your job is to find the long-term public interest of the community as a whole, and you may be hearing from the wrong people.
- * Don't be afraid of change. Don't be content just to follow the routine of your predecessors. Charge your appointed officers and their employees with being responsible for new ideas and better ways. Listen to what they have to say.
- * Don't give quick answers when you're not sure of the real answer. It may be embarrassing to appear ignorant, but it can be more embarrassing and damaging to tell a person something that is wrong.
- * As an individual, even if you're the mayor, don't make promises you can't deliver! Most decisions and actions require approval of the city council, and that takes a majority vote.
- * Don't spring surprises on your fellow council members or your city staff, especially at formal meetings. If a matter is worth bringing up for discussion, it is worth being on the agenda. While surprises may get you some publicity, at the embarrassment of others, they tend to erode the "team" approach to governance.
- * Retain competent key employees. Pay them well. Trust their professional judgment and recognize their responsibilities.

- * Don't bypass the system! You have a city manager. Council members should stick to policy-making and avoid personal involvement in the day-to-day operations of the city.
- * Don't let others bypass your system - insist that people such as vendors or service providers first work with your city staff. If direct contact with council members is advisable, this should be with the council as a whole, not on a one-to-one basis.
- * Learn to evaluate recommendations and alternative courses of action. Request your staff to provide options. Encourage imaginative solutions.
- * Be concerned with the long-term future to avoid unnecessary expense and delay and to avoid taking short-term gains at the expense of long-term losses.
- * Balance personal rights and property interests. Balance the possible harm to a few versus the good of the many.
- * Be concerned with the total development (physical, economic, social) of your community.
- * Visit other cities, particularly those with a reputation of being well run. Get to know the officials of neighboring and similarly sized cities.
- * Don't act as if the city operates in a vacuum. Cities must work within the intergovernmental system to be effective. Keep in contact and cooperate with your federal, state, county, and school officials.
- * Keep your constituents informed, by such means as a weekly "open letter" in the local newspaper, radio interviews, or news releases. Be friendly and deal effectively with the news media. Lack of good communications is one of the big problems of cities.
- * Remember that what you say, privately and publicly, will often be news. Avoid overpublicizing minor problems.
- * Appoint citizen advisory committees when you need them, but be prepared to follow their advice if you use them.
- * Have some goals and objectives. What do you want to accomplish this year? Next year? What do you want the city to accomplish this year? During the next five years?
- * Be a leader as well as part of the team of elected and appointed officials who were selected to make your city an even better place to live.
- * Having a practice of "no surprises" between the council and staff, and vice versa, fosters a productive working relationship.

(2006 Code, sec. 2-611; Ordinance 10-11-862 adopted 11/15/10)

ARTICLE 1.03 EMERGENCY MANAGEMENT*

Sec. 1.03.001 National Incident Management System adopted

The city hereby adopts the National Incident Management System dated March 1, 2004. (2006 Code, sec. 2-2; Ordinance 05-10-679, sec. 2, adopted 10/17/05)

* **Charter reference**—Disaster clause, sec. 12.10.

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

ARTICLE 1.04 RECORDS MANAGEMENT***Sec. 1.04.001 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:

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

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

Municipal 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 them is open or restricted under the laws of the state, created or received by the city or any of its officers or employees pursuant to law or in the transaction of 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.

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

Records control schedule. 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. The application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term “records management” 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 micrographics and electronic and other records storage systems.

Records management officer. The person designated in section 1.04.004.

Records management plan. The plan developed under section 1.04.005.

Retention period. 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.

(1993 Code, sec. 39.01; 2006 Code, sec. 2-401; Ordinance 331 adopted 10/7/91)

Sec. 1.04.002 Municipal records declared public property

All municipal records are hereby declared to be the property of the city. No municipal official or employee has, by virtue of his position, any personal or property right to such records even though he may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited. (1993 Code, sec. 39.02; 2006 Code, sec. 2-402; Ordinance 331 adopted 10/7/91)

* **Charter reference**—Public records, sec. 11.01.

State law reference—Local Government Records Act, V.T.C.A., Local Government Code, ch. 201 et seq.

Sec. 1.04.003 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 municipal records through a comprehensive system of integrated procedures for their management from creation to ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice. (1993 Code, sec. 39.03; 2006 Code, sec. 2-403; Ordinance 331 adopted 10/7/91)

Sec. 1.04.004 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 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. (1993 Code, sec. 39.04; 2006 Code, sec. 2-404; Ordinance 331 adopted 10/7/91)

Sec. 1.04.005 Records management plan to be developed; approval of plan; authority of plan

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

(b) Once approved by the city, 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 does 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.

(1993 Code, sec. 39.05; 2006 Code, sec. 2-405; Ordinance 331 adopted 10/7/91)

Sec. 1.04.006 Duties of records management officer

In addition to other duties assigned in this article, the records management officer shall:

- (1) Administer the records management program and provide assistance to department heads in its implementation;
- (2) Plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
- (3) In cooperation with department heads, identify essential records and establish a disaster plan for each municipal office and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;
- (4) Develop procedures to ensure the permanent preservation of the historically valuable records of the city;
- (5) Establish standards for filing and storage equipment and for recordkeeping supplies;
- (6) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the city;

- (7) Monitor records retention schedules and administrative rules issued by the state library and archives commission to determine if the records management program and the municipality's records control schedules are in compliance with state regulations;
- (8) Disseminate to the city council and department heads information concerning state laws and administrative rules relating to local government records;
- (9) Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the records of the city is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
- (10) Maintain records on the volume of records destroyed under approved records control schedules or through records destruction authorization requests, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;
- (11) Report annually to the city council on the implementation of the records management plan in each department of the city, including summaries of the statistical and fiscal data compiled under subsection (10) of this section; and
- (12) Bring to the attention of the city council noncompliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act.

(1993 Code, sec. 39.06; 2006 Code, sec. 2-406; Ordinance 331 adopted 10/7/91)

Sec. 1.04.007 Duties and responsibilities of department heads

In addition to other duties assigned in this article, department heads shall:

- (1) Cooperate with the records management officer in carrying out the policies and procedures established in the city for the efficient and economical management of records and in carrying out the requirements of this article;
- (2) Adequately document the transaction of government business and the services, programs, and duties for which the department head and his staff are responsible; and
- (3) Maintain the records in his care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of the city and the requirements of this article.

(1993 Code, sec. 39.07; 2006 Code, sec. 2-407; Ordinance 331 adopted 10/7/91)

Sec. 1.04.008 Records control schedules to be developed; approval; filing with state

(a) The records management officer, in cooperation with department heads, shall prepare records control schedules on a department-by-department basis listing all records series created or received by the department and the retention period for each series. Records control schedules shall also contain such other information regarding the disposition of municipal 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 department head and the city council.

(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.

(1993 Code, sec. 39.08; 2006 Code, sec. 2-408; Ordinance 331 adopted 10/7/91)

Sec. 1.04.009 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 1.04.008 shall be implemented by department heads 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 records request is 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 officer 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 city.

(1993 Code, sec. 39.09; 2006 Code, sec. 2-409; Ordinance 331 adopted 10/7/91)

Sec. 1.04.010 Destruction of unscheduled records

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the records management officer has submitted to and received back from the director and librarian an approved destruction authorization request. (1993 Code, sec. 39.10; 2006 Code, sec. 2-410; Ordinance 331 adopted 10/7/91)

ARTICLE 1.05 LIABILITY CLAIMS*

Sec. 1.05.001 Written notice required

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

- (1) The date and time when the injury occurred and the place where the injured person or property was at the time when the injury was received;
- (2) The nature of the damage or injury sustained;
- (3) The appearance of the damage or injury sustained;

* **Charter references**—Notice of claim, sec. 12.03; power to settle claims, sec. 12.04.

State law references—Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code, ch. 101; notice procedures, V.T.C.A., Civil Practice and Remedies Code, sec. 101.101; immunity of certain governmental functions, V.T.C.A., Civil Practice and Remedies Code, sec. 101.055; limitation on amount of liability, V.T.C.A., Civil Practice and Remedies Code, sec. 101.023.

- (4) A specific and detailed statement of how and under what circumstances the damage or injury occurred;
- (5) The amount for which each claimant will settle;
- (6) The actual place of residence of each claimant by street, number, city and state on the date the claim is presented;
- (7) In the case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury or any part thereof and the names of the doctors, if any, to whose care the injured person is committed; and
- (8) In the case of property, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.

(1993 Code, sec. 38.01; 2006 Code, sec. 2-371; Ordinance 251 adopted 8/4/86; Ordinance adopting 2015 Code)

Sec. 1.05.002 Location where notice to be given

All notices required by this article shall be effectuated by serving them upon the city secretary at the following location: 206 N. Murphy Road, Murphy, Texas 75094; and all such notices shall be effective only when actually received in the office of the person named in this section. (1993 Code, sec. 38.02; 2006 Code, sec. 2-372; Ordinance 251 adopted 8/4/86)

Sec. 1.05.003 Filing and refusal of claim a condition precedent to instituting suit

No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff therein shall aver and prove that previous to the filing of the original petition the plaintiff applied to the city council for redress, satisfaction, compensation or relief, as the case may be, and that the same was by vote of the city council refused. (1993 Code, sec. 38.03; 2006 Code, sec. 2-373; Ordinance 251 adopted 8/4/86)

Sec. 1.05.004 Waiver of requirements

Neither the mayor, a city council member nor any other officer or employee of the city shall have the authority to waive any of the provisions of this article. (1993 Code, sec. 38.04; 2006 Code, sec. 2-374; Ordinance 251 adopted 8/4/86)

Sec. 1.05.005 Verification of notice of claim

The written notice required under this article shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein. (1993 Code, sec. 38.05; 2006 Code, sec. 2-375; Ordinance 251 adopted 8/4/86)

CHAPTER 2

ADMINISTRATION AND PERSONNEL

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ARTICLE 2.01 GENERAL PROVISIONS*

Sec. 2.01.001 Name of city

The name of the municipality is the City of Murphy, Texas. (2006 Code, sec. 2-1)

ARTICLE 2.02 BOARDS, COMMISSIONS AND COMMITTEES†

Division 1. Generally

Secs. 2.02.001–2.02.030 Reserved

Division 2. Parks and Recreation Board

Sec. 2.02.031 Established

(a) There is hereby created a parks and recreation board consisting of seven members appointed by the city council for a two-year term. The city council shall make annual appointments to the parks and recreation board, with three members of the board to be selected on even-numbered years and four members of the board to be selected on odd-numbered years.

(b) The board shall operate according to the terms of this code and its established bylaws.

(2006 Code, sec. 2-81; Ordinance 07-12-744, sec. 2, adopted 12/17/07)

Sec. 2.02.032 Definitions

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

Park. A park, reservation, playground, recreation center or any other area in the city owned or used by the city and devoted to active or passive recreation, including all planted expressways, parkways, triangles and traffic circles maintained by the city, except the parkway strips between curbs and sidewalks along the several streets and highways of the city.

(2006 Code, sec. 2-82; Ordinance 07-12-744, sec. 2, adopted 12/17/07; Ordinance adopting 2015 Code)

Sec. 2.02.033 Membership; officers; absence from meetings

A parks and recreation board consisting of seven active members is hereby established as follows:

- (1) Members shall be qualified voters of the city.
- (2) Members shall serve without compensation.
- (3) If a replacement has not qualified upon the expiration of a member's term, then that member shall continue his membership until replaced.

* **Charter references**—Form of government, sec. 1.01; powers of the city, art. II; city administration, art. IV; financial procedures, art. VII; official newspaper and website, sec. 11.02; city depository, sec. 11.08.

† **Charter references**—Authority, composition and procedures of boards and commissions, sec. 8.01; conflict of interest, sec. 14.07.

- (4) The parks and recreation board shall annually elect a chairman, a vice-chairman and a secretary.
 - (A) The chairman shall preside over meetings and shall be entitled to vote upon each issue. In the event that a question over procedure arises, Robert's Rules of Order shall prevail.
 - (B) The vice-chairman shall assist the chairman in directing the affairs of the advisory board. In the absence of the chairman, the vice-chairman shall assume all duties of the chairman.
 - (C) The secretary shall keep the minutes of all meetings, and in the secretary's absence the chairman shall designate another member to act as secretary. The secretary shall read, once a year, at the first regular meeting following the appointment of officers, the parks and recreation ordinance. The secretary may accept the assistance of city personnel in taking and transcribing minutes, when available, but shall sign same officially before presenting same to the board for approval.
- (5) The city manager or his designee shall be an ex officio member of the board, with the responsibility to participate in discussions but without the right to vote.
- (6) A member's absence from three consecutive meetings without formal consent of the board shall be deemed to constitute the retirement of that member and shall be certified by the chairman to the council.

(2006 Code, sec. 2-83; Ordinance 07-12-744, sec. 2, adopted 12/17/07; Ordinance adopting 2015 Code)

Sec. 2.02.034 Duties and responsibilities

The parks and recreation board shall have the following duties and responsibilities:

- (1) It shall support and promote the mission statement of the parks and recreation department.
- (2) It shall act in an advisory capacity to the city staff and the city council in all matters pertaining to parks and recreation, shall acquaint itself with and make a continuous study and review of the complete parks and recreation services of the city, and shall advise with the staff and city council from time to time as to the present and future maintenance, operation, planning, acquisition, development, enlargement and use of policies of the city park and recreation services.
- (3) It shall study and encourage the development of parks and recreation areas and study and encourage the development of wholesome recreation for all residents of the city.
- (4) It shall advise with the city manager or his designee on problems of development of recreation areas, facilities, programs and improved recreation services.
- (5) It shall recommend the adoption of standards on areas, facilities, program and financial support.
- (6) The members of the board shall study and review the master planning guide for parks and recreation and become familiar with such plan and its relation to existing and proposed facilities and shall become aware of any revision or updating thereof.
- (7) It shall advise and recommend to the city manager or his designee on the development of long-range capital improvement programs and, when in its opinion the need exists for additional park and recreational facilities, grounds or premises, it shall make appropriate recommendations to the city council. It shall also recommend the acquisition of additional parks, park and recreational equipment and supplies.
- (8) It shall develop, for council review, the rules and regulations as may be prescribed by the city council for the conduct of its business.

- (9) It shall advise and recommend, for council review, rules, regulations and policies governing the use of park and recreational facilities. It shall review those rules and regulations on a timely basis and update accordingly.
- (10) The park and recreation board shall recommend and review appropriate programming of activities for the city's park and recreation facilities. It shall perform this review on a timely basis and update accordingly.
- (11) It may solicit for the city, gifts, revenues, bequests or endowments of money or property as donations or grants from any person, subject to the approval and acceptance by the city council.
- (12) It may, from time to time, recommend to the city council amendments or changes to this code.
- (13) It shall review, recommend and evaluate written policies and procedures for the city manager or his designee to follow [in] the conduct of all recreational activities.
- (14) The board will review the proposed budget for the parks and recreation department and make any recommendations to the council it deems necessary. However, the board is not authorized to add, delete or change in any way the budget as prepared by the parks and recreation staff.
- (15) All duties and responsibilities prescribed and delegated herein are delegated to the board as a unit, and all action hereunder shall be of the board acting as a whole. No action of an individual member is authorized except through the board.
- (16) The board shall encourage and facilitate urban beautification in the city's medians and other public places.
- (17) The board's authority shall not extend to the direction, supervision, employment or termination of employees of the parks and recreation department. No supervisory power of the board is created.
- (18) The board shall not have the power to obligate the city for any funds or expenditures or incur any debt on behalf of the city.

(2006 Code, sec. 2-84; Ordinance 07-12-744, sec. 2, adopted 12/17/07; Ordinance adopting 2015 Code)

Sec. 2.02.035 Procedures

The procedures of the parks and recreation board are as set out below:

- (1) The parks and recreation board shall establish the regular meetings of the board, which shall be held in a public place with public notice as prescribed by law.
- (2) Special meetings may be called by the chairman or vice-chairman or by written request sent to the chairman or vice-chairman by two members of the board.
- (3) All meetings shall be open to the public in accordance with the Texas Open Meetings Act, V.T.C.A. Texas Government Code, ch. 551, as amended.
- (4) All questions presented for a vote of the parks and recreation board shall be decided by a simple majority of those voting members present. Only those voting members present can vote.

(2006 Code, sec. 2-85; Ordinance 07-12-744, sec. 2, adopted 12/17/07)

ARTICLE 2.03 OFFICERS AND EMPLOYEES***Division 1. Generally****Secs. 2.03.001–2.03.030 Reserved****Division 2. City Manager[†]****Sec. 2.03.031 Office created**

The office of city manager is hereby created. (1993 Code, sec. 32.01; 2006 Code, sec. 2-171; Ordinance 264 adopted 12/1/86; Ordinance 03-02-565 adopted 2/17/03; Ordinance 04-03-605, sec. 2, adopted 3/20/04)

Sec. 2.03.032 Appointment

The city council shall appoint, upon the affirmative vote of a majority of the full membership of the city council, a city manager who shall serve as chief administrative officer of the city. The city manager shall be responsible to the city council for administration of all the affairs of the city, with only those exceptions that are named in the charter. The city manager shall be appointed solely upon the city manager's executive, administrative and educational qualifications, and shall have previous city manager or assistant city manager experience and/or a degree in a field related to city government. The city manager need not be a resident of the city when appointed, but shall within a reasonable time after such appointment reside within the city during the balance of the tenure of his appointment. In case of the absence, disability or suspension of the city manager, the city council may designate a temporary qualified administrative officer of the city to perform the duties of the office. (1993 Code, sec. 32.02; 2006 Code, sec. 2-172; Ordinance 264 adopted 12/1/86; Ordinance 03-02-565 adopted 2/17/03; Ordinance 04-03-605, sec. 2, adopted 3/20/04)

Charter reference—Appointment of city manager, sec. 4.01(1); temporary replacement, sec. 4.01(4).

Sec. 2.03.033 Removal from office

The city manager may be removed or suspended, with or without cause (subject to any contractual arrangements that may exist between the city and the city manager), at the discretion of the city council by the affirmative vote of a majority of the full membership of the city council. Upon a decision to remove the city manager, written notice of such decision shall be immediately furnished to the city manager and the city council may then suspend or remove him from duty. (1993 Code, sec. 32.03; 2006 Code, sec. 2-173; Ordinance 264, 12-1-1986; Ordinance 03-02-565, 2-17-2003; Ordinance 04-03-605, sec. 2, 3-20-2004)

Charter reference—Removal or suspension of city manager, sec. 4.01(3).

Sec. 2.03.034 Powers and duties

The city manager shall exercise all general management functions of the city by serving as chief administrative officer of the city, and he shall be authorized to do the hiring and firing of personnel employed by the city, with the exception of those municipal officers required by the city charter to be hired and fired by the city council. The city manager shall be responsible to the city council for the proper administration of all affairs of the city. To that end, the city manager shall have power and shall be required to:

- (1) Appoint, suspend and remove all city employees and appointive administrative officers provided for in the city charter, except as otherwise provided by law, the city charter or personnel rules adopted pursuant thereto.

* **Charter references**—City administration, art. IV; personnel system, sec. 4.06; oath of appointed officers, sec. 11.03; bonds, sec. 12.09.

State law references—Authority of city to appoint, remove and prescribe duties for officers, V.T.C.A., Local Government Code, sec. 26.041; residency requirements for municipal employees, V.T.C.A., Local Government Code, sec. 150.021; official bonds, V.T.C.A., Government Code, ch. 604.

[†] **Charter references**—Form of government, sec. 1.01; city manager, sec. 4.01.

- (2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by law or the city charter.
- (3) See that all state laws and city ordinances are effectively enforced.
- (4) Attend all city council meetings with the right to take part in discussion, but the city manager shall not vote.
- (5) Prepare and accept, or designate an appropriate department head or city employee to prepare and accept, items for inclusion in the official agenda of all city council meetings and meetings of all boards and commissions.
- (6) Prepare and recommend to the city council the annual budget and capital program, and administer the budget as adopted by the city council.
- (7) Keep the city council fully advised and informed at least quarterly, or at the request of the city council, as to the financial conditions and future needs of the city, and make such recommendations concerning the affairs of the city as the city manager or the city council deems desirable or necessary.
- (8) Make reports as the city manager or the city council may require concerning the operations of the city departments, offices or agencies subject to the city manager's direction or supervision.
- (9) Perform such other duties as are specified in the city charter or may be required by the city council, and are consistent with the city charter and state or federal law.
- (10) Prepare job descriptions for all officers and employees of the city and dismiss any employee, with the exception of those municipal officers required by the city charter to be hired and fired by the city council. The city manager shall be empowered to suspend any officer until such time as the city council can act on his recommendation, with the exception of the city manager, city secretary, city attorney and city judge, who are appointed and removed by the city council and supervised, in part, by the city council's designated liaison to those officers, the city's mayor. The city manager has the authority to recommend to the city council the appointment or termination of any officer of the city. Only the city council shall have the authority to terminate the employment of the city manager, city secretary, city attorney and city judge, in accordance with the city's charter.
- (11) Direct and supervise the day-to-day activities of all employees through department heads, including the city secretary, city attorney and city judge. These municipal officers, as well as the city manager, however, may also be supervised, from time to time, by the mayor as the city council's designated liaison to these municipal officers.
- (12) Prepare and submit to the city council as of the end of the fiscal year a complete report on the finances and administrative activities in the city for the preceding year.
- (13) Work directly with outside consultants in developing solutions to identified local service needs.
- (14) Recommend to the city council from time to time the adoption of such measures as he may deem necessary or expedient for the health, safety or welfare of the city or for the improvement of administrative services of the city to achieve greater cost effectiveness or program results.
- (15) Assist the city council in applying for federal and state grants.
- (16) Be responsible for the purchasing of day-to-day materials and needs limited by the budget for the current year. All invoices to be paid by check signed by two of the following: mayor, mayor pro tem, city secretary, director of finance or city manager.

- (17) Enforce all personnel policies and rules, and advise the city council on other personnel system improvements as needed.
- (18) Investigate the affairs of the city or any department or division thereof. Investigate all compliances in relation to matters concerning the administration of the government of city, and in regard to service maintained by the public utilities in the city, and see that all franchises, permits and privileges granted by the city are faithfully observed.
- (19) The city manager shall be responsible to the city council for the efficient administration of its affairs.

(1993 Code, sec. 32.04; 2006 Code, sec. 2-174; Ordinance 264 adopted 12/1/86; Ordinance 03-02-565 adopted 2/17/03; Ordinance 04-03-605, sec. 2, adopted 3/20/04)

Charter reference—Powers and duties of city manager, sec. 4.01(5).

Sec. 2.03.035 City council to deal with administrative service through city manager

Members of the city council shall not in any way dictate the appointment or removal of the city administrative officers or employees appointed by the city manager or any of the city manager's subordinates. The city council, at a meeting called for that purpose, may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees. Except for the purpose of inquiries and investigations as provided by the city charter, the city council shall interact with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager. The city council shall not give orders to any such officer or employee, either publicly or privately, except as otherwise provided in the city charter. Notwithstanding this provision, the mayor, as the city council's liaison to the municipal officers that the city council hires and fires, may also supervise, from time to time, the city manager, city secretary, city attorney and city judge. (1993 Code, sec. 32.05; 2006 Code, sec. 2-175; Ordinance 264 adopted 12/1/86; Ordinance 03-02-565 adopted 2/17/03; Ordinance 04-03-605, sec. 2, adopted 3/20/04)

Charter reference—Prohibitions relating to city council, sec. 3.08.

Sec. 2.03.036 Handling of public emergencies

In case of accident, disaster or other circumstances creating a public emergency, the city manager may award contracts and make purchases for the purpose of meeting said emergency; but he shall file promptly with the city council a certificate showing such emergency and the necessity for such action, together with an itemized account of all such expenditures. All expenditures made hereunder shall conform to the requirements of the laws of the state. (1993 Code, sec. 32.06; 2006 Code, sec. 2-176; Ordinance 264 adopted 12/1/86; Ordinance 03-02-565 adopted 2/17/03; Ordinance 04-03-605, sec. 2, adopted 3/20/04)

Sec. 2.03.037 Surety bond

The city manager shall furnish a surety bond to be approved by the city council, said bond to be continued [conditioned] on the faithful performance of his duties. The premium of the bond shall be paid by the city. (1993 Code, sec. 32.07; 2006 Code, sec. 2-177; Ordinance 264 adopted 12/1/86; Ordinance 03-02-565 adopted 2/17/03; Ordinance 04-03-605, sec. 2, adopted 3/20/04)

Sec. 2.03.038 Compensation

The city manager shall receive such compensation as the city council shall fix from time to time by contract, ordinance or resolution. (1993 Code, sec. 32.08; 2006 Code, sec. 2-178; Ordinance 264 adopted 12/1/86; Ordinance 03-02-565 adopted 2/17/03; Ordinance 04-03-605, sec. 2, adopted 3/20/04)

Charter reference—Compensation of city manager, sec. 4.01(2).

Secs. 2.03.039–2.03.060 Reserved**Division 3. Tax Assessor-Collector****Sec. 2.03.061 Office created; appointment**

The office of tax assessor-collector for the city is hereby created and established for the purpose of assessing and collecting taxes for the city. The office of tax assessor-collector shall be filled by appointment of the city council, or the duties of said office may be provided by the county pursuant to designation by the city. (1984 Code, sec. 3-2-1; 1993 Code, sec. 32.20; 2006 Code, sec. 2-191; Ordinance 22 adopted 12/5/72)

Secs. 2.03.062–2.03.090 Reserved**Division 4. City Health Officer****Sec. 2.03.091 Office created; appointment**

A physician legally qualified to practice medicine within this state shall be hereby appointed as the official city health officer. (1984 Code, sec. 3-5-3; 1993 Code, sec. 32.21; 2006 Code, sec. 2-221(a); Ordinance 168 adopted 6/15/81)

Sec. 2.03.092 Duties

The city health officer shall perform such duties as may be required of him by general law and the city ordinances with regard to the general health and sanitation of the city, and perform such other duties as shall be legally required of him by the mayor, governing body or ordinances of the city. (1984 Code, sec. 3-5-3; 1993 Code, sec. 32.21; 2006 Code, sec. 2-221(b); Ordinance 168 adopted 6/15/81; Ordinance adopting 2015 Code)

Secs. 2.03.093–2.03.120 Reserved**Division 5. City Secretary*****Sec. 2.03.121 Duties; authority of city council and city manager****(a) Findings.**

- (1) The city is a home-rule city that is governed by a city charter.
- (2) The city charter, article IV, section 4.02, city administration, establishes the role and responsibilities of the city secretary.
- (3) The city secretary is a full-time position and a key member of the city's leadership team.
- (4) The city council is not available to manage the city secretary on a daily basis.

(b) Duties; authority of city council and city manager.

- (1) The above-referenced items are true, remain in place and the city council is not releasing its powers or responsibilities as set forth in the charter;
- (2) The city manager is responsible for the day-to-day management of the city secretary and has the authority to approve or deny all travel and leave requests;

* **Charter reference**—City secretary, sec. 4.02.

- (3) The city manager shall advise the city council of any city secretary disciplinary issue or performance concern at the next regular city council meeting; and
- (4) The job description attached to Ordinance 927 reflects the requirements of the city secretary per section 4.02 of the city charter and may not be changed without the approval of the city council.

(2006 Code, sec. 2-226; Ordinance 12-11-927, sec. 1, adopted 11/13/12)

ARTICLE 2.04 DEPARTMENTS*

Division 1. Generally

Secs. 2.04.001–2.04.030 Reserved

Division 2. Health Department

Sec. 2.04.031 Established

There is hereby created the city health department. (1984 Code, sec. 3-5-1; 1993 Code, sec. 34.35; 2006 Code, sec. 2-261)

Secs. 2.04.032–2.04.060 Reserved

Division 3. Street Department

Sec. 2.04.061 Established

There is hereby created the city street department. (1984 Code, sec. 3-3-1; 1993 Code, sec. 34.45; 2006 Code, sec. 2-281)

ARTICLE 2.05 PERSONNEL POLICIES AND RETIREMENT AND BENEFIT PROGRAM†

Division 1. Generally

Sec. 2.05.001 Conditions of employment

All city employees, including all police officers, shall serve at the pleasure of the city manager or designee. All employment with the city shall be “at-will” employment, any employee may be terminated for the convenience of the city or loss of confidence, and “cause” shall not be a requirement for such discharge. Employment with the city shall not create a property interest in continued employment nor an entitlement to continued employment beyond such date as the city council may terminate such employment for the convenience of the city. (1984 Code, sec. 1-6-1; 1993 Code, sec. 35.01; 2006 Code, sec. 2-321; Ordinance adopting 2015 Code)

Sec. 2.05.002 Medical insurance benefit

(a) Group medical insurance program adopted. The city council adopts a group medical insurance program for its employees and does hereby designate program(s) and a company as determined from time to time by ordinance to provide the following benefits for employees of the city:

- (1) Major medical coverage;

* **Charter reference**—Administrative departments, offices and agencies, sec. 4.05.

† **Charter references**—Personnel system, sec. 4.06; nepotism, sec. 14.01; equality of rights, sec. 14.02; wrongful influence, sec. 14.03; wrongful interference, sec. 14.04; employee political activities, sec. 14.05; acceptance of gifts, etc., sec. 14.08.

- (2) Accidental death/dismemberment coverage;
- (3) Prescription card coverage; and
- (4) Dental coverage.

(b) Employee cost; dependent coverage. The employee cost for the group medical insurance program shall be paid by the city, with the amount to be determined by the city council in the budget each year. The insurance carrier shall provide dependent coverage to be made available to city employees and, in the event a city employee elects to have dependent coverage, the cost of the dependent coverage shall be paid by the employee, which shall either be by direct payment from the employee or by salary deduction as authorized by the employee.

(1993 Code, sec. 35.02; 2006 Code, sec. 2-322; Ordinance 287 adopted 11/7/88)

Secs. 2.05.003–2.05.030 Reserved

Division 2. Texas Municipal Retirement System *

Sec. 2.05.031 Participation in system

(a) The city council, on behalf of the city, hereby exercises its option and elects to have the city and all of the employees of all departments now existing and those hereafter created participate in the Texas Municipal Retirement System as provided in the Texas Municipal Retirement System Act.

(b) The city manager is hereby directed to notify the board of trustees of the Texas Municipal Retirement System that the city has elected to participate and have the employees of the city covered in the system.

(c) Each person who becomes an employee of a participating city on or after the effective date of participation of such city whose position shall require more than 1,000 hours per year shall become a member of the Texas Municipal Retirement System as a condition of his employment.

(d) In accordance with the provisions of the Texas Municipal Retirement System Act, the deposits to be made to the Texas Municipal Retirement System on account of current service of the employees of the several participating departments are hereby fixed at a percentage of the full earnings of each employee of said departments, and to be reviewed annually at budget time and changed as approved by the council.

(e) Each employee who qualifies for such credit shall be allowed “prior service credit,” as defined in section 63.101 of the Texas Municipal Retirement System Act, at the rate of 100 percent of the “base credit” of such member, calculated in the manner prescribed in section 63.105 of said act.

(f) For each month of current service rendered to this city by each of its employees who are members of Texas Municipal Retirement System, the city will contribute to the current service annuity reserve of each such member at the time of his retirement, a sum that is 100 percent of such member’s accumulated deposits for such month at employment, and said sum shall be contributed from the city’s account in the municipality accumulation fund.

(g) The city manager or designee is hereby directed to remit to the board of trustees of the Texas Municipal Retirement System the city contributions to the system and the amounts which shall be deducted from the compensation or payroll of employees, all as required by said board under the provisions of the Texas Municipal Retirement System Act, and said official is hereby authorized and directed to ascertain and certify officially on behalf of this city the prior service rendered to the municipality by each of the employees of the participating departments, and the average prior service compensation received by each, and to make and execute all prior

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

service certifications and all other reports and certifications which may be required of the city under the provisions of the TMRS Act, or in compliance with the rules and regulations of the board of the Texas Municipal Retirement System.

(h) Any employee of the city who is a member of the system is eligible to retire and receive a service retirement annuity if the member has at least 20 years of credited service in the system performed for one or more municipalities that have adopted a like provision under V.T.C.A., Government Code sec. 854.202(g).

(1993 Code, sec. 35.15; 2006 Code, sec. 2-341; Ordinance 285 adopted 10/3/88; Ordinance 00-10-499 adopted 10/2/00; Ordinance adopting 2015 Code)

Sec. 2.05.032 Supplemental death benefits

The city hereby elects to participate in the supplemental death benefits fund of the Texas Municipal Retirement System for the purpose of providing in-service death benefits for each of the city's employees who are members of said system, and for the purpose of providing post-retirement death benefits for annuitants whose last covered employment was as an employee of the city, in the amounts and on the terms provided for in sections 62.004, 64.601 through 64.605, 63.314, 65.409 and 65.502 of the Texas Municipal Retirement System Act. (1993 Code, sec. 35.16; 2006 Code, sec. 2-342; Ordinance 285 adopted 10/3/88)

Sec. 2.05.033 Authorization of updated service credits

(a) On the terms and conditions set out in V.T.C.A., Government Code secs. 853.401–853.404, as amended (hereinafter referred to as the “TMRS Act”), each member of the Texas Municipal Retirement System (hereinafter referred to as the “system”) who has current service credit or prior service credit in the system in force and effect on January 1 of the calendar year preceding such allowance, by reason of service in the employment of the city, and on such date has at least 36 months of credited service with the system, shall be and is hereby allowed updated service credit (as that term is defined in V.T.C.A., Government Code sec. 853.402(d)).

(b) On the terms and conditions set out in V.T.C.A., Government Code sec. 853.601, any member of the system who is eligible for updated service credits on the basis of service with the city, who has unforfeited credit for prior service and/or current service with another participating municipality or municipalities by reason of previous service, and was a contributing member on January 1 of the calendar year preceding such allowance, shall be credited with updated service credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in V.T.C.A., Government Code sec. 853.601, both as to the initial grant hereunder and all future grants under this division.

(c) The updated service credit hereby allowed and provided for shall be 100 percent of the base updated service credit of the member (calculated as provided in V.T.C.A., Government Code sec. 853.402(c)).

(d) Each updated service credit allowed hereunder shall replace any updated service credit, prior service credit, special prior service credit or antecedent service credit previously authorized for part of the same service.

(e) In accordance with the provisions of V.T.C.A., Government Code sec. 853.401(d), the deposits required to be made to the system by employees of the several participating departments on account of current service shall be calculated from and after the effective date of the ordinance from which this section is derived on the full amount of such person's compensation as an employee of the city.

(1993 Code, sec. 35.17; 2006 Code, sec. 2-343; Ordinance 309 adopted 11/6/89; Ordinance 323 adopted 11/19/90; Ordinance 360 adopted 12/20/93; Ordinance 00-10-498 adopted 10/2/00; Ordinance 01-11-533 adopted 11/19/01)

Sec. 2.05.034 Increase in retirement annuities

(a) On terms and conditions set out in V.T.C.A., Government Code sec. 854.203, the city hereby elects to allow and to provide for payment of the increases below stated in monthly benefits payable by the system to retired employees and to beneficiaries of deceased employees of the city under current service annuities and prior service annuities arising from service by such employees to the city. An annuity increased under this section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of the annuity increase under this section is computed as the sum of the prior service and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by 70 percent of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of this section.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) If a computation hereunder does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed hereunder.

(e) The amount by which an increase under this section exceeds all previously granted increases to an annuitant is an obligation of this city and of its account in the municipality accumulation fund of the system.

(1993 Code, sec. 35.18; 2006 Code, sec. 2-344; Ordinance 323 adopted 11/19/90; Ordinance 360 adopted 12/20/93; Ordinance 00-10-498 adopted 10/2/00; Ordinance 01-11-533 adopted 11/19/01)

Sec. 2.05.035 Dates of allowances and increases

The initial allowance of updated service credit and increase in retirement annuities hereunder shall be effective on January 1, 2002, subject to approval by the board of trustees of the system. An allowance of updated service credits and an increase in retirement annuities shall be made hereunder on January 1 of each subsequent year until this division ceases to be in effect under V.T.C.A., Government Code sec. 853.404(e); provided that, as to such subsequent year, the actuary for the system has made the determination set forth in V.T.C.A., Government Code sec. 853.404(d) of the TMRS Act. (1993 Code, sec. 35.19; 2006 Code, sec. 2-345; Ordinance 360 adopted 12/20/93; Ordinance 00-10-498 adopted 10/2/00; Ordinance 01-11-533 adopted 11/19/01)

Sec. 2.05.036 Increased municipal contributions

Effective January 1, 2002, for each month of current service thereafter rendered by each of its employees who are members of the system, the city will contribute to the current service annuity reserve of each such member at the time of his retirement, a sum that is 200 percent of such member's accumulated deposits for such month of employment, and said sum shall be contributed from the city's account in the municipality accumulation fund. (1993 Code, sec. 35.20; 2006 Code, sec. 2-346; Ordinance 00-10-498 adopted 10/2/00; Ordinance 01-11-533 adopted 11/19/01)

Sec. 2.05.037 Authorization of restricted prior service credit

(a) On the terms and conditions set out in V.T.C.A., Government Code sec. 853.305, as amended (hereinafter referred to as the "TMRS Act"), each member of the Texas Municipal Retirement System (hereinafter referred to as the "system") who is now or who hereafter becomes an employee of this city shall receive restricted prior service credit for service previously performed as an employee of any of the entities described in V.T.C.A., Government Code sec. 853.305, provided that (i) the person does not otherwise have credited service in the system for that service, and (ii) the service meets the requirements of V.T.C.A., Government Code sec. 853.305.

(b) The service credit hereby granted may be used only to satisfy length-of-service requirements for retirement eligibility, has no monetary value in computing the annuity payments allowable to the member, and may not be used in other computations, including computation of updated service credits.

(c) A member seeking to establish restricted prior service credit under this section must take the action required under V.T.C.A., Government Code sec. 853.305 while still an employee of this city.

(2006 Code, sec. 2-347; Ordinance 04-12-627, sec. 1, adopted 12/6/04)

ARTICLE 2.06 CODE OF ETHICS*

Sec. 2.06.001 Definitions

The terms used in this article shall have the following meanings:

Business entity. A sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

Candidate. This term has the meaning assigned by section 251.001, Election Code.

City attorney. The city attorney appointed by the city council pursuant to the city charter.

City council. The mayor and six (6) council members elected to serve as the governing body of the city.

City employee. Any person employed by the city, including those individuals that are employed on a part-time or temporary basis and employees of any corporation created by the city, but such term shall not be extended to apply to any independent contractor.

City engineer. The city engineer appointed by the city manager.

City manager. The city manager appointed by the city council pursuant to the city charter.

City official. Every member of the city council, the city manager, the city secretary, the city attorney, the municipal judge, the city engineer and all members of any board, commission, or committee appointed by the city council, including the board members of the Murphy Municipal Development District (MDD), and the 4B Murphy Community Development Corporation ("MCDC"), and the executive directors of the MCDC.

City secretary. The city secretary appointed by the city council pursuant to the city charter.

Confidential information. Any information that a city official would be privy to because of the official's position but otherwise is not available to the public under the provisions of the Texas Public Information Act (Tex. Gov't Code chapter 552).

Conflict disclosure statement. The disclosure statement form adopted by the Texas Ethics Commission required by chapter 176 of the Local Government Code.

Conflict of interest questionnaire. The conflicts of interest form adopted by the Texas Ethics Commission required by chapter 176 of the Local Government Code.

* **Charter reference**—Nepotism and other prohibitions, art. XIV.

State law references—Conflicts of interest of officers, V.T.C.A., Local Government Code, ch. 171; public disclosure, V.T.C.A., Government Code, ch. 553; nepotism, V.T.C.A., Government Code, ch. 573.

Economic benefit. Any taxable income or any money, real or personal property, contract rights, sale, lease, option, credit, loan, discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

Economic interest. A legal or equitable interest in real or personal property or a fiduciary obligation to such property or contractual right in such property that is more than two thousand five hundred dollars (\$2,500.00). Service by a city official or city employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create an economic interest in the property of that organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in the securities or other assets unless the city official or city employee participates in the management of the fund. A city official or city employee does not have an economic interest in a matter if the economic impact on the city official or city employee is indistinguishable from the impact on the public or on the particular group affected by the matter.

Family member. A person related to a city official in the first degree of consanguinity or affinity, as described by subchapter B, chapter 573 of the Government Code, except that the term does not include a person who is considered to be related to a city official by affinity only as described by section 573.024(b) of the Government Code. This definition would include children, spouses, parents, step-children and parents-in-law or children-in-law, except that relationships by affinity would end upon divorce.

Gift. A favor, hospitality, or economic benefit other than compensation but which does not include campaign contributions reported as required by state law, gifts received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an inter vivos or testamentary trust.

Municipal judge. The municipal judge or alternate municipal judge appointed by the city council pursuant to the city charter.

Permissible gift. A thing of nominal value given (not to exceed \$100.00 in value), and not given to request a specific favor, special treatment, or influence a city official or city employee. Marketing advertisement items of nominal value, or certificates or plaques having no intrinsic value, are considered permissible gifts or gratuities. The purchase of meals of nominal value, provided there is a rotation of purchasing, is considered a permissible gift. The provision of training/education programs of a general nature is considered a permissible gift or gratuity. Items that exceed \$100.00 in value, if divided (e.g. holiday food or sporting event tickets distributed by lot) or donated for a city-sponsored function, are considered permissible gifts and/or gratuities.

Qualified voter. A person who meets the qualifications of section 11.002 of the Texas Election Code to vote in city elections.

Second degree by affinity. Is defined by subchapter B., chapter 573 of the Government Code and examples of such relationship are set out in exhibit 1 at the end of this section.

Substantial interest. The interest that a city official and/or a family member has in a business or business entity or in real property as described below:

- (1) The city official and/or a family member owns ten percent (10%) or more of the voting stock or shares of the business entity; or
- (2) The city official and/or a family member owns ten percent (10%) or more or \$15,000.00 or more of the fair market value of the business entity; or
- (3) Funds received by the city official and/or a family member from the business entity exceed ten percent (10%) of the person's gross income for the previous year;
- (4) The city official and/or family member has a substantial interest in real property if the interest is an equitable or legal interest with a fair market value of \$2,500 or more.

Third degree by consanguinity. Is defined by subchapter B., chapter 573 of the Government Code and examples of such relationship are set out in exhibit 1 at the end of this section.

EXHIBIT 1
Consanguinity and Affinity

Affinity Kinship (Marriage) Relationships

<u>1st Degree</u>	<u>2nd Degree</u>
Father-in-Law	Spouse's Grandfather
Mother-in-Law	Spouse's Grandmother
Son-in-Law	Spouse's Brother (Brother-in-Law)
Daughter-in-Law	Spouse's Sister (Sister-in-Law)
Spouse	Spouse's Grandson
	Spouse's Granddaughter
	Brother's Spouse (Sister-in-Law)
	Sister's Spouse (Brother-in-Law)

Consanguinity (Blood) Relationships

<u>1st Degree</u>	<u>2nd Degree</u>	<u>3rd Degree</u>
Father	Grandfather	Great-Grandfather
Mother	Grandmother	Great-Grandmother
Son	Brother	Nephew
Daughter	Sister	Niece
	Grandson	Great-Grandson
	Granddaughter	Great-Granddaughter
		Uncle
		Aunt

(2006 Code, sec. 2-501; Ordinance 10-11-863 adopted 11/15/10; Ordinance 12-03-909 adopted 3/6/12; Ordinance 13-12-965 adopted 12/10/13; Ordinance adopting 2015 Code)

Sec. 2.06.002 Standards of conduct

(a) No city official or city employee may disclose any confidential information gained through the city official's or city employee's office or position concerning property, operations, policies, or affairs of the city, or use such confidential information to advance any economic interest of the city official or city employee, confer any economic benefit to the city official or city employee, or their family member. This subsection shall not preclude disclosure of such confidential information in connection with any investigation or proceeding regarding whether there has been a violation of this code of ethics to any investigatory, administrative or judicial authority.

(b) No city official or city employee may use his or her office or position or city-owned facilities, equipment, supplies, or resources of the city to advance any economic interest of the city official or city employee, confer any economic benefit to the city official or city employee, for a political campaign of the city official or city employee, or for any of the city official's or city employee's family members. Notwithstanding the foregoing, city-owned facilities, equipment, supplies or resources may be used by city officials or city employees to the extent such uses are customary, incidental or lawfully available to the public.

(c) No city official shall knowingly represent, directly or indirectly, any person, group or business entity:

- (1) Before the city council or the board, commission or committee of which he or she is a member;
- (2) Before a board or commission which has appellate jurisdiction over the board, commission or committee of which he or she is a member;

- (3) In any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, board, commission or committee is a party; or
 - (4) In any action or proceeding in the municipal court(s) of the city which was instituted by a city official or city employee in the course of his or her official duties, or a criminal proceeding in which any city official or city employee is a material witness for the prosecution.
- (d) The restrictions contained in subsection (c) do not prohibit the following:
- (1) A city official, or his or her spouse, appearing before the city council or a city board, commission or committee to represent himself or herself in a matter affecting his or her property; provided, however, that no such person, or his or her spouse, shall personally appear before the city council, board, commission or committee of which he or she is a member and must submit their case through an authorized representative;
 - (2) A city official or city employee appearing before the city council or a city board, commission or committee to address employment matters.
- (e) No city official may act as surety for any person or business entity that has work, business, or a contract with the city, or act as a surety on any bond required by the city for a city official.
- (f) No city official or city employee shall default or refuse to answer any questions pertinent to the proceedings before the city council, or fail or refuse to obey any subpoena, or to produce any books, papers or other material issued by the city council.
- (g) No city official or city employee shall deny, abridge or compromise equality of rights under state and federal law with respect to appointment to or removal of any appointed position with the city as prohibited by section 14.02 of the city charter.
- (h) No city official or city employee who seeks appointment or promotion with respect to any city-appointed position shall, directly or indirectly, give, render or pay any money, service or other valuable thing to any person for, or in connection with, his or her test, appointment or promotion with respect to any city position as prohibited by section 14.03 of the city charter.
- (i) No city official or city employee shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or promotion with respect to any city position, or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of the city charter as prohibited by section 14.04 of the city charter.
- (j) No city official, who holds any compensated, non-elective city position, or city employee shall use their official title or position with the city to solicit any contribution or endorse the candidacy of any candidate for public office in the city as prohibited by section 14.05 of the city charter. Any such person shall have the right to exercise his/her legal rights to participate in the election process when he/she is not on duty, in a city building, city-provided uniform or attire, or using a city vehicle or equipment.
- (k) Members of the city council shall not in any way dictate the appointment, removal or discipline of the city officials or city employees appointed by the city manager or any of the city manager's subordinates as prohibited by section 3.08(2) of the charter. Notwithstanding the foregoing, the city council, at a meeting called for that purpose, may express its views and fully and freely discuss with the city manager anything pertaining to the appointment and removal of such city officials and city employees.
- (l) Except for the purpose of inquiries and investigations provided by the charter, the city council shall interact with city officials and city employees who are subject to the direction and supervision of the city manager in accordance with the governance policy adopted by the city council. The city council shall not give

orders to any such city official or city employee, either publicly or privately, except as otherwise provided in the charter.

(2006 Code, sec. 2-502; Ordinance 10-11-863 adopted 11/15/10; Ordinance 12-03-909 adopted 3/6/12; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.003 Gifts and honorariums

(a) Prohibition.

- (1) No city official or city employee may solicit or accept any gift, favor or privilege, that is offered or given with the intention of influencing the judgment or discretion of the city official or city employee; or given in consideration of the favorable exercise of the city official's or city employee's judgment or discretion in the past.
- (2) A city employee performing regulatory functions or conducting inspections or investigations shall not solicit, accept, or agree to accept any benefit from a person the city employee knows to be subject to regulation, inspection, or investigation by the city employee or the city.
- (3) A city employee having custody of prisoners shall not solicit, accept, or agree to accept any benefit from a person the city employee knows to be in his custody or the custody of the city.
- (4) A city employee or a city official who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the city shall not solicit, accept, or agree to accept any benefit from a person the city employee or city official knows is interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of his discretion.
- (5) A city employee or city official who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision shall not solicit, accept, or agree to accept any economic benefit from a person the city employee or city official knows is interested in or likely to become interested in any matter before the city employee or city official or tribunal.
- (6) A city official is prohibited from soliciting, accepting, or agreeing to accept an honorarium in consideration for services that the city official would not have been requested to provide but for the city official's official position or duties.

(b) Donation of unsolicited gift. A city employee or city official who receives an unsolicited gift that the city employee or city official is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

(c) Exceptions. The prohibitions set out in this section do not apply to:

- (1) A fee prescribed by law to be received by a city employee or city official or any other benefit to which the city employee or city official is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a city employee or city official;
- (2) A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient; or

- (3) A benefit to a city employee or city official required to file a statement under chapter 572, Government Code, or a report under title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
 - (A) The benefit and the source of any benefit in excess of \$50.00 is reported in the statement; and
 - (B) The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or the city;
- (4) A political contribution as defined by title 15, Election Code;
- (5) A permissible gift as defined in this article, excluding cash or a negotiable instrument as described by section 3.104, Business and Commerce Code;
- (6) An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
- (7) Food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law;
- (8) Any gift or benefit otherwise excepted under section 36.10, Penal Code; or
- (9) This section does not prohibit a city official from accepting (A) transportation expenses, (B) lodging expenses or (C) meals in connection with a conference or similar event in which the city official renders services, such as addressing an audience or engaging in a seminar to the extent that those services are more than merely perfunctory.

(2006 Code, sec. 2-503; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.004 Conflict of interest; recusal

- (a) Conflict of interest. No city official may vote on or participate in any decision-making process on a matter concerning property or a business entity if the official has a substantial interest in the real property or business entity.
- (b) Recusal.
 - (1) A city official shall disclose the existence of any substantial interest in any business entity or real property involved in any decision pending before such city official, or the body of which he or she is a member. To comply with this subsection, a city official shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by Local Government Code section 171.004 or, if not so required, shall publicly disclose in the official records of the city to the city secretary the nature of the interest. To further comply with this subsection, a city official shall notify the city manager, or if the city official is the city manager, shall notify the city secretary, in writing of the nature of any substantial interest he or she may have in a business entity or real property which would be affected by an exercise of discretionary authority by the city official and the city manager or city secretary shall assign the matter to another employee. In disclosing a substantial interest in a business entity, a city official shall not be required to disclose the dollar amount of any income that he or she receives from the business entity.
 - (2) The city council shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the council has a substantial interest. The member of the city council that has the substantial interest may not participate in the separate vote.

- (3) In addition to complying with the requirements of chapter 171 of the Local Government Code, to avoid the appearance and risk of impropriety, a city official should abstain from participation in, discussion of, and any vote on a matter involving a person or business entity that the official knows is likely to affect the economic interest of, or confer an economic benefit on:
- (A) The city official's parent, child, step-child, spouse, or other family member within the second degree of consanguinity or affinity as defined by chapter 573 of the Government Code, or a client of the city official;
 - (B) An employer of the city official, the city official's parent, child, step-child, or spouse;
 - (C) A business entity for which the city official serves as an officer or director or serves in any policy-making position;
 - (D) A person or business entity from whom, within the past twelve months, the city official or the official's spouse, directly or indirectly, received an economic benefit; or
 - (E) A person or business entity from whom, within the past twelve months, the city official or the official's spouse, directly or indirectly, engaged in negotiations pertaining to business opportunities.

(2006 Code, sec. 2-504; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.005 Conflict disclosure statements

- (a) A city official shall file a sworn conflicts disclosure statement with the city secretary whenever a city official or a family member: (1) is receiving taxable income from an employment or other business relationship with a person or business entity who has contracted with the city for the sale or purchase of real property, goods or services or that is considering contracting with the city for the sale or purchase of real property, goods or services that exceeds \$2,500.00 (not including investment income) during the twelve-month period preceding the date that the city official became aware of the contract; or (2) has received gifts with a value of more than \$250.00 during the twelve-month period preceding the date that the city official became aware of the contract from a person or business entity that contracts with the city for the sale or purchase of real property, goods or services or that the city is considering doing business with such person or business entity. The city official shall file the conflicts disclosure statement with the city secretary no later than 5:00 p.m. on the seventh business day after the date the city official becomes aware of the facts that require the filing of the statement.
- (b) A city official commits an offense if the city official knowingly fails to file the conflicts disclosure statement. An offense under the above subsection is a class C misdemeanor.
- (c) The city secretary shall accept and file any and all city official conflict disclosure statements and any vendor conflict of interest questionnaires.
- (d) The city secretary shall maintain a list of city officials and shall make that list available to the public and any person who may be required to file a conflict of interest questionnaire. The city secretary shall maintain copies of the conflict disclosure statements and conflict questionnaires on the city's website.
- (e) City officials shall abstain from participation in, discussion of, and any vote on a matter involving a person or business entity, if, within the 12 months preceding the date of the vote, the city official has filed, or should have filed, a conflicts disclosure statement under chapter 176 of the Local Government Code.

(2006 Code, sec. 2-505; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.006 Interest in property acquired with public funds

(a) Disclosure of interest in property. A city official who has a legal or equitable interest in real property that is to be acquired with public funds shall file an affidavit within 10 days before the date on which the property is to be acquired by purchase or condemnation.

(b) Affidavit. The affidavit must:

- (1) State the name of the city official;
- (2) State the city official's office, public title, or job designation;
- (3) Fully describe the property;
- (4) Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;
- (5) State the date when the person acquired an interest in the property;
- (6) Include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by section 553.002, Government Code"; and
- (7) Contain an acknowledgement of the same type required for recording a deed in the deed records of the county.

The affidavit must be filed with the records administrator for the city.

(2006 Code, sec. 2-506; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.007 Nepotism

(a) Prohibition.

- (1) A city official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from city funds or fees of office if:
 - (A) The individual is related to the city official within the third degree by consanguinity or the second degree by affinity; or
 - (B) The city official holds the appointment or confirmation authority as a member of a state or local council, the legislature, or a court and the individual is related to another member of that council, legislature, or court within the third degree by consanguinity or the second degree by affinity.
- (2) A city official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual's services are under the city official's direction or control and that is to be compensated directly or indirectly from city funds or fees of office if:
 - (A) The individual is related to another city official within the third degree by consanguinity or the second degree by affinity; and

- (B) The appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other city official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first city official within the third degree by consanguinity or the second degree by affinity.
- (b) Exceptions.
 - (1) The prohibitions in this section do not apply to:
 - (A) An appointment to the office of a notary public or to the confirmation of that appointment;
 - (B) An appointment or employment of a personal attendant by a city official for attendance on the city official who, because of physical infirmities, is required to have a personal attendant; or
 - (C) Any other appointment excepted under chapter 573, Government Code.
 - (2) The prohibition in this section does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:
 - (A) The individual is employed in the position immediately before the election or appointment of the city official to whom the individual is related in a prohibited degree; and
 - (B) That prior employment of the individual has been continuous for at least six (6) months.
 - (3) If, under subsection (b)(2), an individual continues in a position, the city official to whom the individual is related in a prohibited degree may not participate in any deliberation or vote on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

(2006 Code, sec. 2-507; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.008 Bribery

- (a) Prohibition. A city official or city employee shall not:
 - (1) Intentionally or knowingly offer, confer, or agree to confer on another person, or solicit, accept or agree to accept from another person:
 - (A) Any benefit or consideration for the city official's or city employee's decision, vote, recommendation, or other exercise of official discretion as a city official or city employee;
 - (B) Any benefit as consideration for the city official's or city employee's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
 - (C) Any benefit as consideration for a violation of a duty imposed by law on a city official or city employee; or
 - (D) Any benefit that is a political contribution as defined by title 15, Election Code, or that is an expenditure made and reported in accordance with chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit;

notwithstanding any rule of evidence or jury instruction allowing factual interference in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subsection.

(b) No defense.

- (1) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
- (2) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:
 - (A) The decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
 - (B) The city official or city employee ceases to be a public servant.

(c) Exceptions. It is an exception to the application of subsections (a)(1)(A), (B) and (C) that the benefit is a political contribution as defined by title 15, Election Code, or an expenditure made and reported in accordance with chapter 305, Government Code.

(2006 Code, sec. 2-508; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.009 City records

(a) Prohibition. A city official or city employee shall not:

- (1) Knowingly make a false entry in, or false alteration of, a city record;
- (2) Make, present, or use any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine city record;
- (3) Intentionally destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a city record;
- (4) Possess, sell, or offer to sell a city record or a blank city record form with intent that it be used unlawfully;
- (5) Make, present, or use a city record with knowledge of its falsity; or
- (6) Possess, sell, or offer to sell a city record or a blank city record form with knowledge that it was obtained unlawfully.

(b) Exception. It is an exception to the application of subsection (a)(3) of this section that the governmental record is destroyed pursuant to legal authorization or transferred under section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of title 6, subtitle C, Local Government Code.

(2006 Code, sec. 2-509; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.010 Misuse of official information(a) Prohibition.

- (1) A city employee or city official shall not misuse information to which he or she has access by virtue of his or her office or employment and that has not been made public, and shall not:
 - (A) Acquire, attempt to acquire or aid another to acquire or attempt to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;
 - (B) Speculate or aid another to speculate on the basis of the information; or
 - (C) As a city official or city employee coerce another into suppressing or failing to report that information to a law enforcement agency.
- (2) A city employee or city official shall not with intent to obtain a benefit or with intent to harm or defraud another, disclose or use information for a nongovernmental purpose that:
 - (A) The city official or city employee has access to by means of his office or employment; and
 - (B) Has not been made public.

In this section, “information that has not been made public” means any information to which the public does not generally have access, and/or that is prohibited from disclosure under chapter 552, Government Code.

(2006 Code, sec. 2-510; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.011 Abuse of official capacity

(a) Prohibition. A city official or city employee commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

- (1) Violates a law relating to the city official’s or city employee’s office or employment; or
- (2) Misuses city property, services, personnel, or any other thing of value belonging to the city that has come into the city official’s or city employee’s custody or possession by virtue of the city official’s or city employee’s office or employment.

(b) Exceptions. A discount or award given for travel, such as frequent flyer miles, rental car or hotel discounts, or food coupons, are not things of value belonging to the city for purposes of this section due to the administrative difficulty and cost involved in recapturing the discount or award for the city.

(2006 Code, sec. 2-511; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.012 Official oppression

(a) Prohibition. A city official or city employee acting under color of his office or employment commits an offense if he:

- (1) Intentionally subjects another person to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;
- (2) Intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful; or
- (3) Intentionally subjects another to sexual harassment.

(b) For purposes of this section, a city official or city employee acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported activity.

(c) In this section, “sexual harassment” means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person’s exercise or enjoyment of any right, privilege, power or immunity, either explicitly or implicitly.

(2006 Code, sec. 2-512; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.013 Ethics review commission

(a) There is hereby created an ethics review commission (the “commission”), an advisory commission having jurisdiction over ethics complaints as described in this article involving city officials. All ethics complaints against a city employee who is not a city official as defined in section 2.06.001 must be filed in the manner prescribed in chapter 7 of the city’s personnel policies and procedures manual, as may be amended from time to time.

(b) The commission is to be composed of five (5) members each serving a two-year term. The city council shall appoint each member (a “commissioner”) to the commission. If a vacancy occurs on the commission, the city council shall appoint a person to fill the unexpired term. Each commissioner shall take an oath of office comparable to that taken by council members. Commissioners shall serve without compensation, but shall be eligible to be reimbursed for actual expenses in accordance with the city’s reimbursement policy.

- (1) Terms of commissioners. Beginning January 1, 2013, the commission shall be comprised of five (5) members each serving a two-year term. Thereafter, all members’ terms shall be two (2) years alternated as follows: three commission members shall be appointed to a term commencing in January of odd-numbered years, and two commission members shall be appointed to a term commencing in January of even-numbered years. To implement the staggered terms, three commission members shall be appointed to two-year terms commencing January 1, 2015, and two commission members shall be appointed to a one-year term commencing January 1, 2015. Thereafter, all members’ terms shall be two (2) years alternated as outlined above. The council may, at its discretion, extend the terms of the outgoing commissioners for up to one hundred and eighty (180) days in order to resolve any pending complaints. The commission members shall serve at the pleasure of the city council and may be removed at the discretion of the city council. Any commissioner who misses three (3) consecutive meetings within a twelve-month time period or one-third (1/3) of all regular meetings shall be deemed to have automatically vacated his/her position on the commission. Any commissioner who applied for and received an excused absence from the commission chairperson prior to the meeting(s) at issue shall not be considered absent for purposes of this subsection. Any commissioner who no longer resides within the corporate boundaries of the city is deemed to have automatically vacated his/her position on the commission. A commissioner appointed to serve on the ethics commission is not eligible to serve as an appointed official on another city board or commission, including, but not limited to, any development districts until the term has ended.
- (2) Commission officers; quorum. From among its members, the commission shall elect its officers, those being the chairperson, vice-chairperson, and secretary. Officers shall be elected for terms of one (1) year. The chairperson shall preside over all meetings and may vote. If the chairperson fails or refuses to act, the vice-chairperson shall perform the duties of the chairperson. [If] the chairperson and vice-chairperson are absent, any commissioner may be appointed by the remaining members of the commission to preside over the meeting. Three (3) or more commissioners present at a meeting shall constitute a quorum, but no action of the commission shall be of any force or effect unless it is adopted by the favorable votes of three (3) or more of its members.

- (3) Meetings. The commission shall have such meetings as may be necessary to fulfill its responsibilities. The commission shall meet at least once a year. The date of the annual meeting shall be in February as set by the commission. The chairperson or any two (2) members of the commission may call a meeting provided that reasonable notice is given to each commissioner and written notice is posted in accordance with the provisions of the Texas Open Meetings Act. The commission shall comply with the provisions of the Texas Open Meetings Act when conducting any meetings and/or hearings under this article.
- (4) Qualifications.
- (A) Commissioners must be qualified voters who are residents of the city.
 - (B) No commissioner may be a city official, a city employee, an appointed board or commission member or a family member of a city official or city employee.
 - (C) Commissioners shall maintain objectivity and be free of conflicts of interest in discharging their duties. Commissioners shall be independent in fact and appearance when hearing matters brought before the commission. When a commissioner has any reason to believe that he or she cannot be impartial, intellectually honest and free of conflicts of interest in discharging any of the duties of the commission, such commissioner shall disclose the facts and circumstances that create the conflict and shall not vote or otherwise participate in consideration of the matter.
 - (D) The commission shall have the authority to review and investigate complaints filed in accordance with this article and issue a written finding of the commission's determination when appropriate.
 - (E) Service on the commission does not preclude a member from filing a complaint with the commission. The commission member filing the complaint must recuse himself/herself from the commission procedure.
 - (F) The commission may make recommendations to the city council regarding revisions and changes to this article.
 - (G) The commission may seek any necessary assistance or resources from the city council and city manager regarding support needed to carry out the commission's duties.
 - (H) The commission shall determine its rules and procedures which shall be submitted in writing and recommended for approval of the council. The commission shall establish, amend, and rescind its procedures and maintain proper records of its proceedings and its opinions, subject to city council approval.
 - (I) The commission shall have the power to investigate, request, and gather evidence necessary to determine if a violation has occurred. The commission must request access to employees through the city manager prior to interviewing an employee as a possible witness in a complaint. The commission shall have the power to enforce the provisions of this article, including recommending to the city council the prosecution of alleged violators. Nothing in this article shall be construed, however, to prevent complainants, including the city, from instituting direct legal action on their own behalf through the appropriate judicial authority.
 - (J) The commission shall receive from the city such administrative support as reasonably necessary to carry out the duties of the commission and shall assist the commission with maintenance of its records in compliance with the city's records retention schedule.

(2006 Code, sec. 2-513; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13; Ordinance 14-10-989 adopted 10/21/14)

Sec. 2.06.014 Complaint process**(a) Filing.**

- (1) Any city official, city employee, or qualified voter of the city who believes that there has been a violation of this article may file a sworn complaint. A complaint alleging a violation of this article must meet the requirements herein and must be filed with the city secretary. A complaint alleging a violation of this article by the city attorney must also be filed with the persons named in section 2.06.015(f). A complaint must be filed within six (6) months from the date of the alleged violation. Please refer to section 2.06.015(c) "Role of the city attorney."
- (2) Required contents of a complaint. A complaint must be in writing, filed on the official complaint form approved by the city, under oath and must set forth in simple, concise, and direct statements the following:
 - (A) The name of the complainant;
 - (B) The street or mailing address and the telephone number of the complainant;
 - (C) The name of the person who allegedly committed the violation;
 - (D) The position or title of the person who allegedly committed the violation;
 - (E) The nature of the alleged violation, including, if possible, the specific rule or provision of this article alleged to have been violated;
 - (F) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and must contain the following:
 - (i) Documents or other material available to the complainant relevant to the allegation;
 - (ii) A list of all documents or other material relevant to the allegation and available to the complainant, but that are not in the possession of the complainant, including the location of the documents, if known; and
 - (iii) A list of all documents or other material relevant to the allegation, but unavailable to the complainant, including the location of the documents, if known.
 - (G) If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief.
- (3) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of this article.
- (4) Upon request, the city secretary shall provide information to persons about the requirements of a complaint and the process for filing a complaint.

(b) Confidentiality and ex parte communications.

- (1) No city official or city employee may reveal information relating to the filing or processing of a complaint except as required for the performance of official duties.
- (2) All documents relating to a pending complaint are confidential, unless they are required to be disclosed under the Texas Public Information Act (Texas Government Code chapter 552).

- (3) After a complaint has been filed, and during the consideration of a complaint by the commission, a member of the commission may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the commission. This provision does not prevent a member of the commission from consulting with the city attorney, or its independent legal counsel selected by the city council regarding procedural and legal issues.
- (4) City council approval shall be required for legal fees, cost, and related expenses of \$5,000 or more.
- (c) **Notification.**
 - (1) A copy of a complaint shall be promptly forwarded by the city secretary to the city attorney and to the person charged in the complaint.
 - (2) The person alleged in the complaint to have violated this article shall be provided with a copy of this code of ethics and informed that:
 - (A) Within fourteen (14) days of receipt of the complaint, a sworn response must be filed with the city secretary;
 - (B) Failure to file a response does not preclude the city attorney from processing the complaint.
 - (3) City officials and city employees have a duty to cooperate with the city attorney, pursuant to this section. All requests for access to city employees throughout the course of an investigation shall be submitted to the city manager in writing.
 - (4) All members of the commission shall receive copies of the complaint, any background documentation, and any responses at least seven (7) days before a hearing on the matter.

(2006 Code, sec. 2-514; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.015 Role of city attorney

- (a) The city attorney serves as legal counsel to the ethics review commission. When complaints are filed against members of the city council, the city manager, or the city attorney, independent legal counsel may be utilized to advise the commission and take part in its proceedings, subject to approval of the fee arrangement by the city council.
- (b) The city attorney serves as ethics advisor to city officials. As ethics advisor, the city attorney is available to respond to inquiries relating to the ethics ordinance (this article) and may render advisory opinions on potential conflicts of interest or violation of this article at the request of a city official or city employee. The advisory opinion in any subsequent charges concerning the matter may be used as a defense to an alleged violation of this article unless material facts were omitted or misstated by the person requesting the opinion.
- (c) The city attorney shall receive all sworn complaints and, if found sufficient, shall provide a copy and a preliminary review of the complaint to the commission for action. The city attorney shall, within fifteen (15) days of receiving the complaint and the response of the accused person, if any, provide a written report to the commission. The report shall state whether, in the city attorney's opinion, the written complaint:
 - (1) Was filed timely;
 - (2) Alleges misconduct by a person whose conduct is regulated under this code;
 - (3) Alleges the occurrence of conduct that might reasonably constitute a violation of this article; and
 - (4) Is signed and sworn to by the person filing the complaint.

(d) The city attorney shall also advise the commission whether the city attorney has issued a written opinion or opinions to the accused person that relate to the conduct at issue and whether, in the city attorney's opinion, the conduct was undertaken in good faith reliance on a written opinion that concluded the conduct was not in violation of this article. Where the city attorney concludes that the conduct was undertaken in good faith reliance on a written opinion, the city attorney shall recommend that the commission dismiss the complaint following the preliminary hearing.

(e) The city attorney's recommendation that the commission conduct further proceedings does not mean that any of the allegations of the complaint are true or false or that any city official or city employee has violated or not violated this article.

(f) If a complainant alleges a violation by the city attorney, the complaint must be filed with the city secretary, and be forwarded to the municipal judge, with a copy to the mayor and the city manager. The municipal judge will follow the procedures in this section.

(2006 Code, sec. 2-515; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.016 Hearing process

(a) Preliminary hearing.

- (1) After the city attorney, or independent legal counsel selected by the commission as set out in section 2.06.015(a) above, has found that a complaint is not defective as to form nor is insufficient (for example, because it does not allege the existence of reasonable grounds to believe that a violation of this article has occurred), the commission, as soon as reasonably possible, but in no event later than sixty (60) days after receiving a complaint, shall conduct a preliminary hearing. The purpose of the preliminary hearing is to make an initial determination as to whether or not a violation of this article has occurred.
- (2) The complainant and the city official named in the complaint have the right of representation by legal counsel.
 - (A) The city may pay for legal fees, cost, and related expenses for representation of the city official, as decided by the city council.
- (3) Statements at a preliminary hearing shall be under oath, but there shall be no cross-examination or requests for persons or evidence issued for the hearing. The commission members may ask open-ended questions. No public comments are allowed in a preliminary hearing.
- (4) The person filing a complaint shall state the alleged violation and describe in narrative form the testimony and other evidence which are presented to prove the alleged violation as stated in the written complaint.
- (5) The city official named in the complaint shall have the opportunity to respond but is not required to attend or make any statement. The city official may describe in narrative form the testimony and other evidence presented to disprove the alleged violation. If the city official agrees that a violation has occurred, the commission may consider the appropriate sanction.
- (6) Only members of the commission may question the complainant, the independent counsel for the commission, or the city official named in the complaint.
- (7) At the conclusion of the preliminary hearing one of the following actions shall be taken:
 - (A) If the commission does not determine that there are reasonable grounds to believe that a violation of this article has occurred, the complaint shall be dismissed.

- (B) If the commission determines that there are reasonable grounds to believe that a violation of this article has occurred, it shall schedule a final hearing.
- (C) If the city official has agreed that a violation has occurred, the commission may proceed to determine the appropriate sanction without the necessity of a final hearing and state its findings pursuant to subsection (b)(4) below.

(b) Final hearing.

- (1) Except as provided by subsection (a)(7)(C) of this section above, a final hearing shall be held as expeditiously as possible following the determination by the commission that there are reasonable grounds to believe that a violation of this article has occurred, but in no event shall it be held more than thirty (30) days after said determination. The commission may grant up to two postponements, not to exceed fifteen (15) days each, upon the request of the city official named in the complaint.
- (2) If a complaint proceeds to a final hearing, the commission may request witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers, records, or other evidence needed for the performance of the commission's duties or exercise of its powers, including its powers of investigation. No public comments are allowed during the final hearing.
- (3) The complainant and the city official named in the complaint have the right of representation by legal counsel.
- (4) The issue at a final hearing is whether a violation of this article has occurred. The commission shall make its determination based on the preponderance of the evidence in the record. All witnesses shall make their statements under oath. Witnesses may be cross-examined. If the commission determines that a violation has occurred, it shall state its findings in writing, identify the particular provision(s) of this article which have been violated, and within five (5) working days deliver a copy of the findings to the complainant, the person accused in the complaint, and the city secretary. The city secretary shall deliver a copy of the findings to the council, the city manager and the city attorney.

(2006 Code, sec. 2-516; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.017 Sanctions for violations

- (a) If the commission determines that a violation of this article has occurred, it shall consider appropriate sanctions. The commission may receive additional testimony or statements before considering sanctions, but is not required to do so.
- (b) If the commission determines that a violation has occurred, it may impose the following sanctions:
 - (1) A letter of notification is an appropriate sanction when the violation is clearly unintentional, or when the conduct of the person complained against was done in reliance upon an opinion of the city attorney. The letter of notification shall advise the city official of any steps to be taken to avoid future violations.
 - (2) A letter of admonition is the appropriate sanction when the commission finds the violation is minor and/or may have been unintentional, but calls for a more substantial response than a letter of notification.

- (3) A letter of reprimand is the appropriate sanction when the commission finds a serious violation has been committed intentionally or knowingly or through disregard of this article. A written reprimand directed to a city official who also serves as a city employee shall be included in the employee's personnel file.
- (4) A letter of censure is the appropriate sanction when the commission finds that a serious violation has occurred and/or more than one serious violation or repeated serious violations of this article have been committed by a city official.
- (c) Copies of all sanction letters issued by the commission under this section shall be sent to the city council.
- (d) In addition, if the violation is found by the commission to be done willfully and the seriousness of the violation warrants, the commission may recommend to the city council the suspension or removal from office of any official serving in a city-appointed position.
- (e) Except with regard to violations of chapters 171 and 176 of the Texas Local Government Code, violations of the Penal Code, or violations of the Government Code, a violation by any city official or city employee as designated herein of one or more of the provisions of this article shall not be deemed to be a class C misdemeanor under the laws of the State of Texas.

(2006 Code, sec. 2-517; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

Sec. 2.06.018 Distribution and proof of compliance

The city secretary shall provide each new city official designated in this article, a copy of the text of this article; chapter 171 and chapter 176 of the Texas Local Government Code pertaining to conflicts of interest; the Texas Open Meetings Act (Texas Government Code chapter 551); the Texas Public Information Act (Texas Government Code chapter 552); chapter 573 of the Texas Government Code; Texas Penal Code sections 36.02, 37.10, 39.02, 39.03 and 39.06 (collectively referred to in this section as the "ethics statutes") with a signature receipt of all said documents. (2006 Code, sec. 2-518; Ordinance 10-11-863 adopted 11/15/10; Ordinance 13-12-965 adopted 12/10/13)

CHAPTER 3

RESERVED

CHAPTER 4

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ARTICLE 4.01 GENERAL PROVISIONS***Sec. 4.01.001 Definitions**

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

Abandon. Leaving an animal in any place without providing reasonable and necessary care, including, but not limited to, air, food, water, or protection from heat, cold, or other elements of nature.

Animal. Any living creature, including but not limited to dogs, cats, pigs, cows, horses, mammals, reptiles, fowl and livestock, but specifically excluding human beings.

Animal control division. The division of the city responsible for the enforcement of state laws and local ordinances pertaining to animals which serves as a contact point for the public with regard to animal problems and issues.

Animal control officer. Any person designated by the chief of police to enforce the provisions of this chapter.

Animal control supervisor. The person designated to supervise all aspects of animal control or his or her authorized representative or designee.

Animal shelter. A facility operated by the city for the purpose of impounding and caring for animals held under the authority of this chapter.

Dangerous animal.

- (1) Any animal which, without provocation, inflicts bites on or attacks a human being or domesticated animal on either public or private property;
- (2) Any animal which, in a vicious or terrorizing manner, approaches a human being in an apparent attitude of attack upon the streets, sidewalks, or any public or private grounds or places;
- (3) Any animal with a known propensity, tendency or disposition to attack without provocation, which causes injury or otherwise threatens or endangers the safety of a human being or a domesticated animal;
- (4) Any animal suspected of being a dangerous animal if the owner, keeper or harbinger of such animal fails to refuses to make such animal available for inspection to an animal control officer;
- (5) Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting; or
- (6) Any animal which has behaved in such a manner that the owner thereof knows or should reasonably know that the animal is possessed of tendencies to attack or to bite human beings or domesticated animals.

Dangerous propensities. Any one, or a combination, of the animal behaviors of biting, snarling, charging aggressively toward a person or another animal, growling with curled lips, popping of teeth, or barking with raised hackles.

Dog. A domesticated member of the family Canidae, but shall not include a wolf, jackal, coyote, fox, or other wild animal of this family or hybrid thereof.

* **State law reference**—Health and safety of animals, V.T.C.A., Health and Safety Code, ch. 821 et seq.

Exotic animals. Non-native species of animal, including, but not limited to, nonpoisonous reptiles which when mature are over six feet in length, ostriches, any member of the Ratite family or exotic livestock as defined by the state animal health commission.

Fowl. All of those birds commonly called poultry, including, but not limited to, chickens, ducks, geese, guinea fowl, turkeys, pigeons and all the relatives of those birds which can be in pens, coops, cages or enclosures of any kind.

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

Humane trap. A box cage for catching animals in a humane manner.

Humanely euthanized. To cause the death of an animal by a method which:

- (1) Rapidly produces unconsciousness and death without visible evidence of pain or distress; or
- (2) Utilizes anesthesia produced by an approved agent which causes painless loss of consciousness, and death following such loss of consciousness.

Large livestock. Horses, mules, donkeys, cattle, goats, sheep and swine regardless of age, sex, size or breed, but does not include the pot-bellied pig, miniature horse, or pygmy goat.

Miniature livestock. Swine or goats that have been specifically bred to be significantly smaller at maturity than all other breeds of similar animals. Miniature livestock includes, but is not limited to, pot-bellied pigs, pygmy goats and miniature horses.

Owner. Any person having title to any animal, or a person who has, harbors or keeps, or who causes or permits to be harbored or kept, an animal in his care, or who permits an animal to remain on or about his premises.

Person. Any individual, firm, association, partnership, or corporation.

Pet animal. Dogs, cats, ferrets, rabbits, rodents, birds, reptiles and any other species of animal that are sold or retained as household pets, but shall not include any species of dangerous animal.

Rabies vaccination. An injection of United States Department of Agriculture approved rabies vaccine administered every 12 or 36 months under the direct supervision of a licensed veterinarian.

Residence. A dwelling, intended to be inhabited by human beings.

Restraint or restrained. Secured by a leash, lead, cord, chain, extendable leash, or rope six feet or less in length and held by the owner or handler; or secured within a kennel or pen within the fenced real property limits of its owner, and may not come any closer than six feet to a public walkway or sidewalk when the restraint lead is stretched to full length.

Running at large or run at large.

- (1) **Off premises.** Any animal which is not restrained by means of a leash or chain of sufficient strength and not more than 15 feet in length to control the actions of such animal while off the owner's property unless on an extendable leash under the owner's control; and
- (2) **On premises.** Any animal not confined on the premises of owner or handler by a substantial fence of sufficient strength and height to prevent the animal from escaping.

Secure enclosure. A house or a building, or, in the case of a dangerous animal being kept outdoors, the kennel/pen shall include a roof which is fastened to all vertical walls, which are submerged in a subpervious material. The kennel/pen must be at least six feet in height and have the minimum dimensions of five feet by ten feet. The kennel/pen must form an enclosure suitable to prevent entry of young children, and must be locked and secured such that an animal cannot climb, dig, jump, or otherwise escape of its own volition. The enclosure shall be securely locked at all times. The kennel/pen will provide protection from the elements and allow for daily removal of waste as approved by the animal control supervisor or designee.

Spay/neuter. The surgical removal of the reproductive organs of a dog or cat to render the animal unable to reproduce.

Veterinarian. A doctor of veterinary medicine who holds a valid license to practice his profession in the state.

Vicious animal. Shall have the same meaning as “dangerous animal.”

Wild animal. Any poisonous or dangerous reptile or any other animal which can normally be found in the wild state or not normally capable of being domesticated, including, but not limited to:

- (1) Reptiles: alligators, crocodiles, or venomous reptiles;
- (2) Birds: emus, ostriches, rheas;
- (3) Mammals: baboons, badgers, bats, bears, bobcats, caracals, cheetahs, chimpanzees, cougars, coyotes, dingoes, elephants, foxes, gorillas, jackals, jaguars, hyenas, leopards, lions, lynx, monkeys (nonhuman primates), martins, minks, ocelots, orangutans, pandas, panthers, raccoons, servals, skunks, tigers, weasels, wolves;
- (4) Marsupials: kangaroos, kinkajous;
- (5) Hybrids: Any hybrid of any animals, including the offspring of domesticated canine and wild canine cross-breeds such as coyote or wolf hybrids. This shall apply regardless of duration of captivity; and
- (6) Any species of animal illegal to own under federal or state law, and any animal which is or may be hereafter be listed as a “high risk” animal in the Texas Rabies Control Act.

(2006 Code, sec. 14-1; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.01.002 Penalties

(a) Any person who violates any provision of this chapter or fails to perform an act required by this chapter commits an offense and shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1.01.009 of this code.

(b) In addition to the penalty provided above, violations of any provision or section of this chapter shall incur civil penalties up to \$1,000.00 per day for each violation, as provided by V.T.C.A., Local Government Code sec. 54.017, as amended, as the same may be amended from time to time. Each day a violation continues shall be deemed a separate offense.

(c) A culpable mental state is not required for the commission of an offense under this chapter, unless the provision defining the conduct expressly requires a culpable mental state.

(d) The city shall be entitled to pursue all other criminal and civil remedies to which it is entitled under the authority of other ordinances or state law, including V.T.C.A., Local Government Code ch. 54.

(2006 Code, sec. 14-99; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.01.003 Authority to enforce

(a) The animal control supervisor or designee is designated as the local rabies control authority for the purposes of V.T.C.A., Health and Safety Code ch. 826, as amended. The local rabies control authority shall enforce:

- (1) The Rabies Control Act of 1981, V.T.C.A., Health and Safety Code ch. 826, as amended, and the rules adopted by the state board of health that comprise the minimum standards for rabies control;
- (2) The ordinances and rules of the city; and
- (3) The rules adopted by the state board of health under the area rabies quarantine provisions of V.T.C.A., Health and Safety Code sec. 826.045, as amended.

(b) Any animal control officer of the city shall have the authority to issue citations for any violation of this chapter and any other power or duty stated within the terms of this chapter.

(c) It shall be unlawful for any person to interfere with any animal control officer in the performance of his duties.

(d) For purposes of discharging duties imposed by the provisions of this chapter, or other applicable laws, and to enforce the same, an animal control officer may enter upon private property to the full extent permitted by law, which shall include, but not be limited to, entry upon private unfenced property, except dwellings located thereon, when in pursuit of any animal which he has reason to believe is subject to impoundment pursuant to the provisions of this chapter or other applicable laws.

(e) Any animal control officer or police officer shall have the authority to humanely euthanize and/or destroy any animal in accordance with the provisions of this chapter.

(2006 Code, sec. 14-2; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.01.004 Limitation of number of animals

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

Adult animal. Any animal which is more than six months of age.

Litter. One or more newborn animal(s) under six months of age.

(b) It shall be unlawful for any residence to keep within the city, in any residential district, more than four adult domesticated animals on a residential lot of 10,000 square feet or less; provided, however, that such person may keep one additional adult animal for each additional 5,000 square feet of lot area. The residence shall be permitted to keep one litter only at any given time.

(2006 Code, sec. 14-3; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.01.005 Animals running at large

(a) It shall be unlawful for any owner of an animal, other than a cat, to cause, permit, suffer or allow the animal to run at large.

(b) Any animal control officer or police officer is authorized to impound such animals running at large, other than a cat, and may impound a cat upon receipt of a complaint that the cat causes a nuisance or hazard to the health or welfare of any person or animal.

(2006 Code, sec. 14-4; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.01.006 Conditions constituting public nuisances

(a) A person commits an offense if he knowingly harbors an animal that unreasonably barks, howls, crows or makes other unreasonable noise near a private residence that disturbs the peace and quiet of any person of ordinary sensibility.

- (1) A person who is disturbed by an animal that unreasonably barks, howls, crows or makes other unreasonable noise near a private residence may file a complaint with the animal control division. A complaint must include the name and address of the complainant, the exact address of the disturbance, the type of animal causing the disturbance and the times that the animal is causing the disturbance.
- (2) An animal control officer shall hand-deliver or mail the owner or harbinger of the animal a notice that a disturbance complaint has been received. If a notice has been mailed to the owner of the animal causing the disturbance, a copy of the letter will also be mailed to the complainant.
- (3) If an owner or harbinger continues to allow his animal to cause a disturbance, the complainant may file a complaint in writing with the municipal court.

(b) It shall be unlawful for the owner to permit, either willfully or through failure to exercise care and control, any such dog or other domesticated animal to urinate or defecate upon the sidewalk or parkway or any public street, or upon the floor of any common hall in any entranceway or stairway, or upon any wall of any public place or building or public park, and any private property not his own, if the owner or handler of the offending animal fails to remediate or clean up the waste deposited by the animal.

(c) It shall be unlawful and considered a public nuisance for any person to allow any house, building, business, lot, pen, enclosure, yard or similar place used for the keeping of animals to become unsanitary, offensive by reason of odor, or disagreeable to persons of ordinary sensibilities residing in the vicinity thereof or to the public at large. Any condition injurious to public health caused by improper waste disposal will be considered a violation of this chapter.

(d) Cats running at large to such a degree that it causes an unreasonable disturbance to a person of ordinary sensibilities is prohibited.

(e) It shall be unlawful for any person to slaughter, skin or defeather an animal within the city, unless for the purposes of promoting the public health and safety. It shall further be unlawful for any person to butcher or display the carcass of an animal on residential property within the city whereby it is in the view of the public, except an animal carcass actually cooking over a barbeque pit.

(f) It shall be unlawful for any person to permit the carcass of any dead animal to be, or remain, upon any property under his control for more than 24 hours after the death of the animal. An animal control officer may be contacted for assistance in disposal of the carcass or referral to an appropriate service contractor.

(2006 Code, sec. 14-5; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.01.007 Animal care rules

(a) No person shall fail to provide his animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(b) The owner or person in possession of animals shall keep yards, pens, and enclosures in which such animals are confined in such a manner so as not to give off odors offensive to persons of ordinary sensibilities residing in the vicinity, or to breed or attract flies, mosquitoes, or other noxious insects, or, in any manner, to endanger the public health or safety, or create a public nuisance.

(c) All persons keeping such animals shall comply with the following sanitary regulations:

- (1) Manure and droppings shall be removed from pens, yards, cages and other enclosures at a minimum of one time per week and handled or disposed of in such manner as to keep the premises free of any nuisance.
- (2) The feeding of vegetables, meat scraps, or garbage shall be done only in impervious containers or on an impervious platform.
- (3) Watering troughs or tanks, if utilized, shall be equipped with adequate facilities for draining the overflow so as to prevent the breeding of flies, mosquitoes, or other insects.
- (4) No putrescible material shall be allowed to accumulate on the premises, and all such material used to feed which is unconsumed shall be removed and disposed of by burial or other sanitary means.

(d) It shall be unlawful for a person to use a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object in violation of state law.

(e) It shall be unlawful for any person to keep a dog within a fenced enclosure in which the fence is in a state of disrepair.

(2006 Code, sec. 14-6; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

State law reference—Unlawful restraint of dog, V.T.C.A., Health and Safety Code, sec. 821.076 et seq.

Sec. 4.01.008 Cruelty to animals

The following are established for pet and animal care and not intended to contravene the provisions for animal cruelty as contained in Texas Penal Code 42.09 and 42.092.

- (1) No owner shall fail to provide his animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.
- (2) No person shall knowingly expose any known poisonous substance, whether mixed with food or not, so that the same may be eaten by any pet or domestic animal.
- (3) No owner of an animal shall abandon such animal.
- (4) No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal; or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and human beings.
- (5) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.

- (6) No person shall leave any animal in an unattended motor vehicle without providing the animal with adequate ventilation. An animal left under such conditions may be impounded.

(2006 Code, sec. 14-7; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

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.

Sec. 4.01.009 Selling baby fowl or rabbits; dyed fowl or rabbits

(a) It shall be unlawful for any person to sell, offer for sale, barter, or give away as toys, premiums or novelties, baby chickens, ducklings or other fowl under three weeks old, or rabbits under two months old.

(b) It shall be unlawful to color, dye, stain or otherwise change the natural color of any chickens, ducklings, other fowl, or rabbits, or to possess for the purpose of sale or to be given away, any of the above-mentioned animals which have been so colored.

(2006 Code, sec. 14-8; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

ARTICLE 4.02 ANIMAL SHELTER*

Sec. 4.02.001 Animal shelter advisory committee

(a) Established; composition. The city council shall appoint a six-person animal shelter advisory committee. The committee shall be composed of one licensed veterinarian, one municipal official, one person whose duties include the daily operation of the animal shelter and is employed by the city as an animal control officer, one representative from an animal welfare organization, and two citizens.

(b) Meetings. The animal shelter advisory committee shall meet at a minimum of three times per year.

(c) Duties. The animal shelter advisory committee shall be limited to the following tasks and responsibilities:

- (1) The animal shelter advisory committee shall meet to discuss ideas that will help ensure that the animal shelter is in compliance with the department of state health services rules pertaining to animal shelters;
- (2) The animal shelter advisory committee shall meet to make recommendations, for the betterment of the community, concerning operations, policies, procedures, new programs, and the improvement of existing programs.

(d) Terms; vacancies. The terms of office of each member of the animal shelter advisory committee shall be two years with staggered appointments except that two members will be initially appointed to a three-year term of office and in accordance with this section thereafter. The city council shall fill any and all vacancies on the committee excluding the animal control officer.

(e) Officers. The city council shall appoint a chairperson for a one-year term. In addition, the committee shall have a vice-chairperson and a secretary who are elected by its members for one-year terms. The secretary of the committee shall keep a record of all proceedings of the committee.

* **State law reference**—Standards for quarantine and impoundment facilities, V.T.C.A., Health and Safety Code, sec. 826.051 et seq.

(f) Removal of members. All members of the committee are subject to removal in accordance with the city council's current policy with regard to required attendance at city board, commission and committee meetings. In addition, the members of the committee may be removed at any time by the city council with or without cause.

(2006 Code, sec. 14-15; Ordinance 09-02-786, sec. 2, adopted 2/16/09; Ordinance 10-06-846, sec. 2, adopted 6/7/10)

Sec. 4.02.002 Removal of animals from animal shelter; abandonment of animals at animal shelter

(a) A person commits an offense if he removes or attempts to remove an animal from the city animal shelter without paying all impoundment, daily handling and other redemption fees assessed.

(b) A person commits an offense if he or she abandons an animal or animals at the city animal shelter.

(2006 Code, sec. 14-16; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

ARTICLE 4.03 REGISTRATION OF DOGS AND CATS*

Sec. 4.03.001 Required

No owner shall have within the city any dog or cat four months of age or older unless such dog or cat is currently registered with the animal control division. Before a city registration certificate will be issued, the owner of any dog or cat must present a copy of a certificate from a licensed veterinarian showing that such dog or cat is current with their rabies vaccination. An exception to this proof of vaccination may be made if the owner presents written recommendation from a licensed veterinarian stating that such rabies vaccination would be detrimental to the health of the animal. A current metal registration certificate, issued by the animal control division, must be affixed to a collar or harness and must be worn by the dog or cat at all times. (2006 Code, sec. 14-22; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.03.002 Application

Application for initial issuance or renewals of each registration must be made by the owner in writing or in person, and be accompanied by an established fee. Animals may be exempted from the sterilization provision upon written recommendation from a veterinarian that such alteration would be harmful or dangerous to the animal. (2006 Code, sec. 14-23; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.03.003 Duplicate certificates

If the original current metal registration certificate is lost or destroyed, the owner may obtain a duplicate registration from the animal control division. (2006 Code, sec. 14-24; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.03.004 Expiration

A tag shall be valid only for the animal for which it was originally issued. The registration period will be within 30 days following receipt of the rabies vaccination of any dog or cat. The registration and tag will be renewed on an annual basis, or every three years depending upon the rabies vaccination certification, and will be valid for a period of one year or three years if so registered. The registration fee for a three-year registration will be three times the annual registration fee. (2006 Code, sec. 14-25; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

* **State law reference**—Registration of dogs and cats, V.T.C.A., Health and Safety Code, sec. 826.031 et seq.

Sec. 4.03.005 Change of ownership

If there is a change in ownership of a registered dog or cat, the new owner shall have the registration transferred to his name. There shall be no charge for such transfer. Application for such transfer shall be made to the animal control division in person or in writing. (2006 Code, sec. 14-26; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.03.006 Fee-exempt registrations

(a) Fee-exempted registrations may be issued for the following:

- (1) Dogs trained to assist auditory, visually, or other physically impaired persons;
- (2) Police or sheriff's department dogs.

(b) Eligibility for fee-exempted registration does not relieve the owner of his responsibility under other provisions of this chapter.

(2006 Code, sec. 14-27; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.03.007 Revocation or denial

An animal control officer may refuse to register a cat or dog or revoke a permit issued to any person who has been convicted in any duly authorized court of jurisdiction in the state, or resides with any person so convicted, of any of the following:

- (1) Cruelty to animals as defined in V.T.C.A., Penal Code secs. 42.09 and 42.092, inhumane treatment or negligence to an animal; or
- (2) Conviction of three or more separate and distinct violations of an animal control ordinance of a municipality in the state within any 12-month period.

(2006 Code, sec. 14-28; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.03.008 Appeal process

(a) Any person denied such registration may appeal the decision of an animal control officer by filing a written notice of appeal within ten days of the decision with the municipal court clerk. If a proper appeal is not filed within ten days, the decision of an animal control officer shall then become final.

(b) If the appeal is properly filed and perfected within ten days of the decision of an animal control officer, the municipal court judge shall uphold or overturn an animal control officer's decision to refuse to issue the registration. At the hearing, all parties shall be given written notice of the hearing and an opportunity to present evidence; the Texas Rules of Evidence shall not apply to the proceeding.

(2006 Code, sec. 14-29; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

ARTICLE 4.04 LIVESTOCK, FERRETS, REPTILES, FOWL AND RABBITS**Sec. 4.04.001 Livestock**

(a) Keeping swine. It shall be unlawful for a person to keep any swine within the city limits except at a location where, because of its rural nature, has an accessory agricultural use associated with its regular zoning classification.

(b) Number of livestock. It shall be unlawful for any person or corporation to keep livestock on any premises (zoned other than agriculture) the overall area of which is less than 40,001 square feet or to keep more than can be cared for under sanitary conditions. The number of livestock permitted shall not exceed two adults (over six months of age) for the first 40,001 square feet and one adult for each additional 20,000 square feet. The number of livestock less than six months of age and horses (miniature variety), sheep, goats less than 34 inches in height at the withers shall not exceed four for the first 40,000 square feet and three for each additional 20,000 square feet.

(c) Construction of pens and enclosures. Any enclosure, pen, corral, or other restrictive area for livestock shall be constructed in such a way and of such material as to ensure containment of such animal or animals.

(d) Requirements for pens and enclosures. It shall be unlawful to erect a structure/building in an area zoned other than agriculture for the housing or keeping of livestock which is within 40 feet of the property boundary line and 100 feet of the residence of any person other than the owner. A ten-foot by 12-foot stall or enclosure under roof is required for each adult livestock. Offspring may remain with the female parent in the same stall or enclosure until six months of age. In addition, there must be at least 2,000 square feet of fenced exercise area/pasture for each adult. Horses (miniature variety), sheep and goats less than 34 inches in height at the withers shall be provided a stall or enclosure minimum four feet by eight feet under roof for each adult and 500 square feet of fenced exercise area/pasture. Fencing must be at least four feet in height, or five feet high in the case of breeding-capable males. Fencing must be of proper strength to contain livestock and maintained in good repair at all times.

(e) Stallions, bulls and rams. Male livestock capable of breeding must be contained within a stall/paddock. Males may be exercised only under direct adult supervision, age 18 or over, within an exercise area/pasture, provided fencing meets requirements (five feet), and no direct contact may be made with livestock on adjoining properties. No pasture breeding is allowed. Under no circumstances shall breeding-capable males and females, even though they are the property of one owner, be allowed together in an exercise area/pasture.

(f) Nuisances or offensive conditions. The owner or person in possession of livestock shall keep exercise areas/pastures, pens, stalls and enclosures in which such livestock is confined in such a manner so as not to give off odors offensive to persons of ordinary sensibilities, or in any manner to endanger the public health or safety, or create a public nuisance.

- (1) Manure and waste must be removed from the stall daily. Manure must be either placed in a contained compost receptacle or spread in an area where it will be immediately worked into the soil. Manure in the exercise area/pasture must be removed from the premises or spread once weekly.
- (2) Watering troughs shall be provided which shall be equipped with adequate facilities for draining the overflow, to prevent the breeding of flies and mosquitoes or other insects.
- (3) Fly control or a pesticide must be used to protect against the breeding of flies.
- (4) Every effort must be made to keep ground cover on the pasture area. Prevention of livestock on this area after rainfall is strongly recommended.

(g) Licensing of livestock. Permits for livestock in other than agriculture zoning areas shall be obtained on an annual basis, or any part thereof (license on January 1 of each year), as specified in the fee schedule in appendix A of this code. 4-H members or FFA projects will not require a paid permit, provided the livestock is certified by a responsible adult within the program as an ongoing project. These permits will be issued free. Permits will be issued for a period of one year and will not be automatically renewed if there have been three violations within the previous 12-month period. In this instance, the applications will be investigated before renewal.

(h) Compliance.

- (1) Exemptions. Owners or persons in possession of the livestock will be given the following reasonable times to comply should a violation occur; however, shelters not meeting the area requirements which were being used as of the date of this chapter shall be considered nonconforming and not in violation of this chapter. Also, persons who have legally been maintaining large animals on their property as a nonconforming right under the “grandfather clause” of the animal control code which was adopted in 1978 shall be considered nonconforming and not in violation of this chapter. If any such nonconforming use is discontinued for a continuous period of six months, such right shall be deemed to have been abandoned and such right terminated.
- (2) Time limits for compliance.
 - (A) Required housing, 90 days (see exemption, subsection (h)(1) of this section).
 - (B) Fence repair/no animal at large, five days.
 - (C) Fence repair/animal at large, 24 hours.
 - (D) Standing water, five days.
 - (E) Manure, two days.
 - (F) Fly control, 24 hours.
 - (G) Uncontrolled breeding male, immediate.
 - (H) Public nuisance, immediate.
 - (I) Abuse, immediate.
 - (J) Noise, immediate.

(2006 Code, sec. 14-35; Ordinance 09-02-786, sec. 2, adopted 2/16/09; Ordinance adopting 2015 Code)

Sec. 4.04.002 Ferrets

- (a) Registration required. It shall be unlawful to possess, harbor, or keep a ferret at any residential dwelling without obtaining a registration certificate from the animal control division.
- (b) Application for registration. The owner, keeper or harbinger of a ferret within the city shall make application for pet registration to the animal control supervisor, or representative, for a registration of such ferret. Along with the application, the owner, harbinger or keeper shall also present a current certificate for such ferret. Along with the application, the owner, harbinger or keeper shall also present a current certificate of vaccination from a licensed veterinarian issued for such ferret.
- (c) Issuance of registration tag. Upon the owner’s compliance with the provisions of this section, the animal control supervisor or designee shall register the ferret and issue a metal registration tag, which shall be attached to the ferret’s collar, and which shall be worn at all times.
- (d) Replacement registration tag. If the original registration tag issued under this section is lost or stolen, the owner may obtain a replacement tag by paying a fee established by resolution of the city council and presenting the registration certificate.

(e) Disposition of biting ferrets. Any ferret suspected of biting a person shall be placed under quarantine to determine if the animal is capable of transmitting or exposing humans and/or other animals to rabies or must be humanely euthanized and sent to the department of state health services for rabies testing. The quarantine period for ferrets shall be for a period of not less than ten days after biting such person. The place of quarantine shall be at the animal shelter or in quarters supervised by a licensed veterinarian for the period of the quarantine and shall not be allowed to be quarantined on the owner's premises.

(f) Ferrets at large. It shall be unlawful to have a ferret in a public place without being on a leash no longer than six feet in length or in an adequate enclosure capable of controlling the animal's actions.

(g) Sterilization. It shall be unlawful for any person to own, keep or harbor within the city any ferret over six (6) months in age which has not been sterilized.

(2006 Code, sec. 14-36; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.04.003 Reptiles

(a) Snakes. Nonpoisonous snakes that do not exceed six feet in length at maturity may be kept in the city. Any snake or lizard located on a person's property may be disposed of by appropriate means by that person.

(b) Lizards. Adult lizards which do not exceed three feet in length at maturity may be kept in the city.

(2006 Code, sec. 14-37; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.04.004 Fowl

(a) The keeping of fowl such as roosters, ducks, turkeys, geese, peacocks, guineas, or other such loud fowl within the city limits in any pen, coop or enclosure that is within 150 feet of any residence (other than the owner's), business or school shall be prohibited.

(b) No person shall keep more than two hens in an area zoned residential within the city, and shall be no closer than 50 feet to the nearest inhabited dwelling, other than that of the owner.

(c) Any fowl kept within the city limits shall be in a secure pen, coop or enclosure, and such structure shall be of such construction and strength to keep such animals from running at large.

(2006 Code, sec. 14-38; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.04.005 Rabbits

Rabbits shall be kept in a secure pen or enclosure that is at least 30 feet from an inhabited dwelling, other than that of the owner. Rabbit enclosures shall be of a design which prohibits waste material dropping to the ground and such construction and strength to keep such animal from running at large. (2006 Code, sec. 14-39; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

ARTICLE 4.05 DANGEROUS ANIMALS*

Sec. 4.05.001 Running at large

Any dangerous animal found running at large and endangering the safety of persons or property may be destroyed by the local health authority, any peace officer, or an animal control officer in the interest of public

* **State law references**—Dangerous dogs, V.T.C.A., Health and Safety Code, sec. 822.041 et seq.; dangerous wild animals, V.T.C.A., Health and Safety Code, sec. 822.101 et seq.

safety if such danger is imminent and a real or apparent necessity exists to destroy such dangerous animal. (2006 Code, sec. 14-45; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.05.002 Impoundment

A dangerous animal may be impounded in the interest of public safety. If an attempt is made to impound a dangerous animal from the premises of the owner and the impoundment cannot be made with safety, the owner will be given 24 hours' notice that, if the dangerous animal is not surrendered to the animal control division for impoundment within the 24 hour period, then the dangerous animal will be destroyed wherever it is found. After such notice, the dangerous animal may be destroyed during an attempt to impound, if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this section may be verbal or in writing. A written notice left at the entrance to the premises where the vicious animal is harbored will be considered valid notice under this article. (2006 Code, sec. 14-46; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.05.003 Determination of dangerous animal

(a) Determination by animal control officer. An animal control officer shall make a determination that an animal is a dangerous animal if the animal control officer finds that an animal commits an act or acts identified, found or set out in the definition of the term "dangerous animal" found in section 4.01.001 of this chapter.

(b) Exceptions to determination that animal is dangerous. No animal shall be declared a dangerous animal if the threat, injury or damage caused by the animal was the result of a willful trespass upon owner's property, or the person injured was tormenting, abusing or assaulting the animal or its owner, or was committing or attempting to commit a crime at the time of injury.

(c) Effect of determination by animal control officer—Disposition of animal determined to be dangerous animal. If an animal control officer determines that the animal is a dangerous animal, the animal control officer shall make a disposition determination and issue an order based on the necessity to preserve the public health, safety and welfare of the community. This determination shall be one of the following:

- (1) Removal of dangerous animal from city. Removal of the dangerous animal from within the city limits. In which case the owner must provide, in writing, the destination address of where the animal is to reside and proof that the owner has alerted the agency responsible for animal services in that area to the animal control supervisor prior to the animal being released from the animal shelter;
- (2) Destruction of dangerous animal. Humane euthanasia of the dangerous animal; or
- (3) Release of dangerous animal to owner under certain conditions. Registration and compliance with all of the following requirements, at the owner's expense, before the dangerous animal is released from the animal shelter or other state-approved quarantine facility:
 - (A) Liability insurance. Owner obtaining liability insurance coverage or showing financial responsibility in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous animal causing bodily injury to a person or for damages to any person's property resulting from the keeping of such dangerous animal. A certificate of insurance or other evidence of meeting the above requirements shall be filed with the animal control supervisor;
 - (B) Registration of dangerous animal. Registering with the city by providing the name and address of the owner; the breed, age, sex, color and any other identifying marks of the animal; the location where the animal is to be kept if it is not at the address of the owner; and two (2) color photographs that clearly identify the dangerous animal;
 - (C) Sterilization of dangerous animal. Having the animal sterilized;

- (D) Secure enclosure requirements for dangerous animal. Constructing a cage, pen or enclosure for the dangerous animal that has secure sides; a secure top attached to the sides; and a secure bottom which is either attached to the sides or else the sides of the structure must be embedded in the ground no less than two feet. The pen or enclosure must be completely encircled by a fence constructed in such a manner as to prevent a person or child from being able to reach the animal's pen or enclosure;
 - (E) Restrictions concerning dangerous animal. Not allowing the dangerous animal to go outside of its cage, pen or enclosure unless the animal is under physical restraint. No person shall permit a dangerous animal to be kept outside of its cage, pen or enclosure on a chain, rope or other type of leash unless a person is in physical control of the chain, rope or leash and the person is of competent strength to control the animal at all times. Dangerous animals shall not be tethered or otherwise leashed to inanimate objects, such as trees, posts, buildings, etc., in violation of state law. All dangerous animals outside their cage, pen or enclosure must be securely fitted with a muzzle that will not cause injury to the animal nor interfere with its vision or respiration but shall prevent the animal from biting other animals or human beings;
 - (F) Sign requirement for dangerous animal. Posting signs giving notice of a dangerous animal in the area or on the premises in which such animal is confined. Such signs shall be conspicuously posted at both the front and rear property entrances and shall bear letters not less than two inches high, stating "DANGEROUS ANIMAL ON PREMISES." Such signs shall also display a symbol that is understandable by small children, that warns of the presence of a dangerous animal;
 - (G) Collar and tag requirements for dangerous animal. Providing the dangerous animal with a fluorescent yellow collar visible at 50 feet in normal daylight and attaching a fluorescent orange tag provided by the animal control division to the collar that is worn at all times so that the animal can be easily identified;
 - (H) Microchip requirements for dangerous animal. Implanting a microchip into the dangerous animal and registering it for life with the city's animal control division and a recognized national registry; and
 - (I) Payment of dangerous animal permit fee. Paying the applicable dangerous animal permit fee annually.
- (d) Same-Impoundment upon determination of animal being dangerous animal. Any animal that is deemed a dangerous animal that was not previously impounded or otherwise in possession of the animal shelter or any other state-approved quarantine facility shall immediately be impounded and boarded at the owner's expense until such time as the owner complies with all of the required conditions as set forth above. The dangerous animal shall be held at the owner's expense pending the outcome of any appeal. It shall be a violation of this section for the owner to refuse to turn over the animal as required, and for the purposes of enforcement each day for each animal in question shall be considered a separate offense.
- (e) Same-Time period for owner compliance. The owner shall have 15 days from the determination of the animal as a dangerous animal to comply with all of the required conditions as set forth by this chapter. If the owner fails to meet all of the requirements, the dangerous animal may be humanely euthanized on the 16th day by an animal control officer or a licensed veterinarian.
- (f) Subsequent escape or attack by dangerous animal. In the event that a registered dangerous animal escapes its cage, pen or enclosure or attacks a human being or another animal, the owner of the dangerous animal shall immediately notify the animal control division. For the purposes of this chapter, immediately shall mean within 30 minutes of the owner becoming aware of the escape or any attack(s).

- (g) Requirements upon death of dangerous animal. In the event that a registered dangerous animal dies, the owner must present the body of the animal to the animal control division or a licensed veterinarian for verification by microchip identification before disposal of its body.
- (h) Transfer of ownership of dangerous animal. Prior to transferring ownership in any way or moving a registered dangerous animal, either inside or outside the city limits, the owner must obtain, in writing, permission from the animal control supervisor to transfer ownership or move the animal. If ownership of the animal is being transferred, the new owner will be required to comply with all provisions of this chapter before the animal can be moved from the previous owner's custody. If the animal is being removed from the city limits, the owner must provide, in writing, to the animal control supervisor, the destination address of where the animal is to be moved to and proof that the owner has alerted the agency responsible for animal services in that area.
- (i) Violation of animal control officer's order. In the event that any owner of an animal declared to be dangerous violates any part of an animal control officer's order, the dangerous animal may be immediately seized and impounded by an animal control officer. Additionally, the animal shall be seized immediately if the animal bites, injures, or attacks a human being or another animal.
- (j) Appeal of order or determination of animal control officer to municipal court. An order and/or determination issued by an animal control officer may be appealed to the municipal court of the city by filing a written notice of appeal within ten days with the municipal court clerk. The municipal court shall conduct a hearing to formally review any order and/or determination pertaining to the dangerous animal unless the matter is resolved by agreement of all parties prior to such hearing. If an appeal is not timely filed, an animal control officer's order and/or determination shall then become final.
- (k) Animal to remain impounded during pendency of appeal. During the pendency of such appeal, any and all order(s) of an animal control officer pertaining to the dangerous animal shall be suspended, and the dangerous animal shall remain impounded at the owner's expense at the animal shelter or other state-approved quarantine facility for observation. If the animal in question is not in the possession of the animal control division or other state-approved facility at the time of the determination, the owner must surrender the animal to the animal control division when ordered to do so by any animal control officer or police officer. If the owner fails to surrender the animal, the animal control division shall have the right to take the animal into its possession from the premises of the owner or elsewhere, wherever the animal may be found within the city limits.
- (l) Refusing inspection after determination by animal control officer. It shall be a violation for any owner of an animal determined by an animal control officer to be a dangerous animal to refuse, upon request by an animal control officer, to make his/her animal(s), premises, facilities, equipment, and any necessary permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this chapter.
- (m) Authorization for search and seizure warrant. If the dangerous animal cannot be taken into custody by an animal control officer, or if there is reason to believe that any requirements of this section are being violated, the dangerous animal may be taken into custody by an animal control officer under a search and seizure warrant issued by the municipal judge.
- (n) Municipal court hearing. A hearing on appeal to the municipal court shall be conducted within 15 days after the filing of the appeal to review the order and/or determination by the animal control division, unless continued for good cause. Any animal awaiting such hearing which was impounded for being at large, was at large when the incident giving rise to the determination by an animal control officer occurred, or which has bitten or caused injury to any person or animal, shall be boarded at the owner's expense at the animal shelter or any other state-approved quarantine facility pending the outcome of an appeal as to whether such animal is a dangerous animal.
- (o) Notice of hearing. Notice of hearing shall be provided by the municipal court to the owner of the dangerous animal. Notice shall be delivered to the owner by certified mail, return receipt requested, and also to the owner and to the animal control division by regular mail.

(p) Determination by municipal court. The municipal court shall make a determination that the animal is a dangerous animal if the court finds that the animal committed an act or acts identified, found or set out in the definition of the term “dangerous animal” found in section 4.01.001 of this article. The owner shall have the burden of proof, and the rules of evidence shall not apply.

(q) Effect of determination by municipal court–Disposition of animal determined to be dangerous animal. If the municipal court upholds the order and/or determination of an animal control officer that the animal is a dangerous animal, the court shall issue an order based on the necessity to preserve the public health, safety and welfare of the community. This order and/or determination shall be one of the following:

- (1) Removal of dangerous animal from city. Removal of the dangerous animal from within the city limits. In which case, the owner must provide, in writing, the destination address of where the animal is to reside and proof that the owner has alerted the agency responsible for animal services in that area to the animal control supervisor prior to the animal being released from the animal shelter;
- (2) Destruction of dangerous animal. Humane euthanasia of the dangerous animal; or
- (3) Release of dangerous animal to owner under certain conditions. Registration and compliance with all of the following requirements, at the owner’s expense, before the dangerous animal is released from the animal shelter or other state-approved quarantine facility. The conditions for release of the dangerous animal to owner shall include all of the conditions enumerated and identified above in subsection (c)(3) of this section.

(r) Same–Impoundment upon determination of animal being dangerous animal. Any animal that is determined by the court to be a dangerous animal that is not already impounded or otherwise in the possession of the animal shelter or any other state-approved quarantine facility shall immediately be impounded and boarded at the owner’s expense until such time as the owner complies with all of the required conditions as set forth above. The dangerous animal shall be held at the owner’s expense pending the outcome of any appeal. It shall be a violation of this section for the owner to refuse to turn over the animal as required, and for the purposes of enforcement each day for each animal in question shall be considered a separate offense.

(s) Same–Time period for owner compliance. The owner shall have fifteen (15) days from the determination by the court that the animal is a dangerous animal to comply with all of the required conditions as set forth by this chapter. If the owner fails to meet any or all of the requirements, the dangerous animal may be humanely euthanized on the 16th day by an animal control officer or a licensed veterinarian.

(t) Violation of municipal court order. In the event that any owner of an animal declared to be a dangerous animal violates any part of the municipal court’s order, the dangerous animal may be immediately seized and impounded by an animal control officer pending further order and/or determination by the municipal court. Additionally, the animal shall be seized immediately if the animal bites, injures, or attacks a human being or another animal.

(u) Reversal of order or determination of animal control division. If the municipal court reverses the order and/or determination of the animal control division, the animal in question shall be released to its owner, provided that the owner reimburses any shelter fees or veterinary expenses while such animal was in custody of the animal control division.

(v) Appeal from municipal court to county court. Orders of the municipal court pertaining to dangerous animals may be appealed to a county court by filing a written notice of appeal with the municipal court clerk within ten (10) days of the determination by the municipal court. During the pendency of such appeal, order(s) of the municipal court pertaining to the dangerous animal shall be suspended, and the animal shall remain impounded at the owner’s expense at the animal shelter or other state-approved quarantine facility for observation. If a proper appeal is not timely filed and perfected, the municipal court’s order shall then become final. If the animal in question is not in the possession of the animal control division or other state-approved facility at the time of the determination, the owner must surrender the animal to an animal control officer when

ordered to do so by any animal control officer or police officer. If the owner fails to surrender the animal, an animal control officer shall have the right to take the animal into its possession from the premises of the owner or elsewhere, wherever the animal may be found within the city limits.

(w) Refusing inspection after determination by lawful authority. It shall be a violation for any owner of an animal determined by an animal control officer, or other lawful authority, to be a dangerous animal, to refuse, upon request by an animal control officer, to make his/her animal(s), premises, facilities, equipment, and any necessary permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this chapter.

(x) Authorization for search and seizure warrant. If the dangerous animal cannot be taken into custody by an animal control officer, or if there is reason to believe that any requirements of this section are being violated, the dangerous animal may be taken into custody by an animal control officer under a search and seizure warrant issued by the municipal judge.

(y) Unlawful release from impoundment or quarantine facility. If the animal is impounded or quarantined at a facility other than the animal shelter, the facility shall be found to be in violation of this chapter if the animal is released to any person, lost, stolen, or otherwise not able to be accounted for, unless the facility first obtains written permission from the animal control supervisor to release the animal.

(2006 Code, sec. 14-47; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.05.004 Requirements for owners of dangerous animals

(a) An owner must comply with all dangerous animal requirements no later than ten days after being notified that the animal has been determined to be a dangerous animal, regardless as to whether a case is under appeal. A 30-day written extension may be granted if additional time is needed to come into compliance.

(b) A dangerous animal must be registered as a dangerous animal with the animal control division.

(c) A dangerous animal must be restrained at all times in a secure enclosure.

(d) An owner of a dangerous animal must acquire \$100,000.00 in liability insurance specifically for the purpose of covering damages resulting from attacks by the dangerous animal.

(e) When the dangerous animal is taken outside the approved proper secure enclosure, the animal must be securely muzzled in a manner that will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting a person or other animal, and the animal must be restrained by a substantial chain or cable leash having a minimum tensile strength of 1,000 pounds and not to exceed six feet in length and be under the direct control or supervision of its owner.

(2006 Code, sec. 14-48; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.05.005 Registration of dangerous animal

(a) Requirements. Each year, the owner of a dangerous animal shall:

- (1) Present proof of the required liability insurance;
- (2) Present proof of current rabies vaccination;
- (3) Present proof and receive approval from the animal control supervisor, or designee, that the dangerous animal's enclosure is secure; and
- (4) Pay a registration fee in accordance with the adopted fee schedule.

- (b) Issuance of tag. The animal control division shall:
- (1) Issue a dangerous animal tag to the owner; and
 - (2) Engrave the current year of the registration on the tag.
- (c) Wearing of tag. The tag must be worn by the animal at all times.
- (d) Notification of transfer of ownership. Upon selling or giving away the dangerous animal, the owner shall notify the animal control division of the name and address of the new owner of the dangerous animal not later than ten days after the date of sale or gift.
- (e) Time limit for registration by new owner. If the new owner resides in the city, the owner shall register the dangerous animal with animal control division no later than 14 days after obtaining the dangerous animal.
- (f) Requirements for registration by new owner or new resident. The animal control division will re-register the dangerous animal with a new owner or a new resident if:
- (1) Proof of liability insurance is presented;
 - (2) Satisfactory proof is presented that the dangerous animal's enclosure is secure;
 - (3) The dangerous animal's unexpired dangerous-animal tag is relinquished to the animal control division; and
 - (4) The owner pays a registration fee in accordance with the adopted fee schedule.
- (g) Notification to other jurisdiction of relocation. The animal control supervisor or designee shall notify the animal control division for such other jurisdiction when notified that a dangerous animal is relocating to another jurisdiction.
- (h) Recognition and effect of prior determination by another jurisdiction. An animal that has been determined to be dangerous by another jurisdiction must be registered as a dangerous animal with the animal control division no later than fourteen (14) days after the animal has been brought into the city and kept at all times in a secure enclosure.

(2006 Code, sec. 14-49; Ordinance 09-02-786, sec. 2, adopted 2/16/09; Ordinance adopting 2015 Code)

Sec. 4.05.006 Offenses

An owner of a dangerous animal commits an offense and will be charged with a misdemeanor if:

- (1) An owner's dangerous animal makes an unprovoked attack on a person or a domesticated animal outside the animal's secure enclosure, and causes bodily injury to the person or domesticated animal while at large;
- (2) An owner does not keep the owner's dangerous animal in a secure enclosure or comply with insurance requirements;
- (3) An owner does not register the owner's dangerous animal;
- (4) An owner does not notify the animal control division when the owner's dangerous animal is given away or sold;
- (5) An owner does not register the dangerous animal when under new ownership;

- (6) An owner is a new resident and does not register the owner's dangerous animal;
- (7) An owner does not notify the animal control supervisor, or designee, regarding attacks by owner's dangerous animal;
- (8) An owner sells or gives away the owner's dangerous animal and does not inform the new owner that the animal is a dangerous animal;
- (9) An owner does not attach the dangerous-animal tag on the owner's dangerous animal.

(2006 Code, sec. 14-50; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.05.007 Keeping of wild animals

- (a) It shall be unlawful to keep any wild animal within the city limits, with the following exceptions:
 - (1) If a person and his or her facility housing such wild animal(s) has complied with all applicable federal, state, and local laws and regulations, including, but not limited to, the acquisition and retention of all applicable permits, prior to final adoption of this chapter, said person may retain dangerous wild animals(s) in the above-described facility in compliance with all federal, state and local laws, including, but not limited to V.T.C.A., Health and Safety Code ch. 822, as amended;
 - (2) A governmental agency or entity acting in an official capacity;
 - (3) A government-operated zoological park;
 - (4) A permitted wildlife educational center, animal exhibitions with valid state or federal permits; or
 - (5) A holder of an animal dealer or animal establishment with a wild animal permit. The possessor of any dangerous wild animal shall have all applicable state and federal permits to possess the species in question.
- (b) Animal establishments or animal dealers who hold a (dangerous) wild animals permit shall make written application to the animal control supervisor to permanently keep each dangerous wild animal in their possession. The application must include the species and location of the animal, at least two pictures that clearly identify the wild animal, and proof that the establishment, center, or person is in possession of the necessary state and federal permit(s) to possess such species.

(2006 Code, sec. 14-51; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.05.008 Sale of wild animals; duty of person finding wild animal at large

- (a) It shall be a violation for any person to sell, offer to sell, give away, offer to give away, or otherwise transfer or attempt to transfer ownership of a wild animal, unless specifically allowed by some other provision of this chapter. Any person who finds a wild animal that is at large must immediately notify an animal control officer. This section shall not be interpreted to restrict a person from giving ill, injured, or orphaned wildlife to a state or federally licensed wildlife rehabilitator or to a permitted wildlife educational center.
- (b) For the purposes of this chapter, the animal control supervisor shall make the determination of whether any animal in question is a pet animal or a wild animal. In addition, for the purposes of this chapter, immediately shall mean within 30 minutes of the person finding that a wild animal is at large.

(2006 Code, sec. 14-52; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

ARTICLE 4.06 RABIES CONTROL***Sec. 4.06.001 Vaccination of dogs and cats required**

Every owner of a dog or cat four months of age or older shall have such animal vaccinated against rabies. All such dogs or cats shall be revaccinated at appropriate intervals according to state law and the type of vaccination series administered to the animal and then at three-year intervals thereafter. Any person establishing residence within the city shall comply with this chapter within ten days of establishing such residency. If the dog or cat has inflicted a bite on any person within the last ten days, the owner of such dog or cat shall report such fact to a veterinarian, and no rabies vaccine shall be administered until after a ten-day observation. (2006 Code, sec. 14-67; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.06.002 Certificate of vaccination

Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat as evidence thereof a certificate upon a form furnished by the veterinarian. The veterinarian shall retain a duplicate copy. Such certificate shall contain the following information:

- (1) The name, address, and telephone number of the owner of the vaccinated dog or cat;
- (2) Animal identification: species, sex (including sterilization if possible), approximate age, size (pounds), predominant breed, and colors;
- (3) The date of vaccination;
- (4) The year and number of the rabies tag; and
- (5) The veterinarian's address, signature or signature stamp, and license number.

(2006 Code, sec. 14-68; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.06.003 Rabies tags

Concurrent with the issuance and delivery of the certificate of vaccination, the owner of the dog or cat shall cause to be attached to the collar or harness of the vaccinated dog or cat a metal tag, serially numbered to correspond with the vaccination certificate number, bearing the year of issuance and the name of the veterinarian and his address. The owner shall cause the collar or harness with the attached metal tag to be worn by the owner's dog or cat at all times. (2006 Code, sec. 14-69; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.06.004 Duplicate tags

In the event of loss or destruction of the original tag provided, the owner of the dog or cat shall obtain a duplicate tag. Vaccination certificates shall be valid only for the animal for which they were originally issued. (2006 Code, sec. 14-70; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.06.005 Proof

It shall be unlawful for any person who owns or harbors a vaccinated dog or cat to fail or refuse to exhibit a copy of the certificate of vaccination upon demand to any person charged with the enforcement of this chapter. (2006 Code, sec. 14-71; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

* **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. 4.06.006 Harboring unvaccinated animal

It shall be unlawful for any person to harbor any dog or cat which has not been vaccinated against rabies, as provided in this article, or which cannot be identified as having a current vaccination certificate. (2006 Code, sec. 14-72; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.06.007 Animals exposed to rabies

(a) Any person having knowledge of the existence of any animal known to have been, or suspected of being, exposed to rabies must immediately report such knowledge to the animal control division, giving any information that may be required.

(b) For any animal [known] to have been, or suspected of being, exposed to rabies, the following rules must apply:

- (1) Animals having a current vaccination must be revaccinated immediately and confined at the animal shelter, by a licensed veterinarian, or if approved by an animal control officer, home quarantine for a period of not less than 45 days.
- (2) Animals not having a current vaccination should be humanely destroyed. However, if the owner of such an animal elects, have the animal confined at the animal shelter or by a licensed veterinarian. Home quarantine will not be an option in such an instance. Such animal must be vaccinated immediately following exposure and confined for not less than 90 days. A revaccination shall be administered on the third and eighth week prior to release from confinement.

(2006 Code, sec. 14-73; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.06.008 Declaration of area quarantine

Should a potential outbreak of rabies within the city be suspected and the danger to the public safety from rabid animals be reasonably imminent, the local rabies authority is hereby authorized to issue a quarantine proclamation, ordering persons owning, keeping, or harboring dogs or other animals to muzzle the same or confine them in such quarantine proclamation by local newspaper. Persons owning or harboring such animals shall confine them to the premises unless they are effectively muzzled and under the control of an adult person by leash, cord, chain, or rope. Animals found at large in violation of this section may be destroyed by an animal control officer or police officer of the city if such officer is unable, with reasonable effort, to apprehend such animal for impoundment. (2006 Code, sec. 14-74; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

State law reference—Area rabies quarantine, V.T.C.A., Health and Safety Code, sec. 826.045.

Sec. 4.06.009 Reporting animal bites

(a) Every physician or other medical practitioner who treats a person for any animal bite, or any person having knowledge of an animal bite, shall, within 24 hours, report such treatment to the animal control division giving the name, age, sex, and precise location of the bitten person and such other information as the officer or agency may require.

(b) The animal control division will investigate each bite incident, utilizing standardized reporting forms provided by the department of state health services.

(c) Human bites from rodents, rabbits, birds, and reptiles are excluded from the reporting requirements.

(2006 Code, sec. 14-75; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.06.010 Quarantine requirements

(a) The local rabies authority may order the quarantine of any animal that has bitten a person or another animal or that is suspected of having a zoonotic disease.

(b) Any owned dog or cat which has bitten a person shall be observed for a period of ten days from the date of the bite. The procedure and place of observation shall be designated by the investigating officer or responsible agency, in compliance with state law. If the dog or cat is not confined on the owner's premises, confinement shall be by impoundment at the animal shelter, or at a veterinary hospital of the owner's choice. Such confinement shall be at the owner's expense. Stray dogs and cats, or those animals whose owners cannot be located, shall be quarantined at the animal shelter for a period of ten days. The owner of any dog or cat that has been reported to have inflicted a bite on any person shall on demand produce such dog or cat for impoundment, as prescribed in this article. Refusal to produce such dog or cat constitutes a violation of this section, and each day of such refusal shall constitute a separate and individual violation.

(c) Home quarantine. An owner of a dog or cat that has bitten may request permission from an animal control officer to home quarantine his animal if the following criteria can be met:

- (1) Secure facilities must be available at the home of the animal's owner and must be approved by an animal control officer.
- (2) The animal is currently vaccinated against rabies.
- (3) The animal was not running at large at the time the bite occurred.
- (4) An animal control officer or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, an animal control officer must be notified by the person having possession of the animal. At the end of the observation period the release from quarantine must be accomplished in writing.
- (5) If the animal cannot be maintained in a secured quarantine, it shall be humanely destroyed and the brain submitted to a department of state health services certified laboratory for rabies diagnosis.

(d) It shall be unlawful for any person to interrupt the ten-day observation period.

(e) No wild animal will be placed in quarantine. All wild animals or hybrids thereof involved in biting incidents will be humanely euthanized in such a manner that the brain shall be submitted to a department of state health services certified laboratory for rabies testing.

(f) The owner of an animal that is quarantined under this article shall pay to the animal shelter the reasonable costs of the quarantine, care, treatment, and disposition of the animal, and an animal control officer shall be authorized to humanely euthanize any animal that the owner or custodian does not take possession of on or before the third day following the final day of quarantine.

(2006 Code, sec. 14-76; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

ARTICLE 4.07 IMPOUNDMENT***Sec. 4.07.001 Generally**

Any animals violating any provision of this chapter may be impounded as follows:

- (1) Cats and dogs not exhibiting registration tags;
- (2) Any animal infected with a zoonotic disease, including, but not limited to, any animal suspected of having been infected by rabies or exposed to rabies;
- (3) Any animal that creates a nuisance;
- (4) Any animal running at large (other than a cat);
- (5) Any animal kept under conditions or treated in a manner which an animal control officer has reasonable cause to believe is cruel or inhumane;
- (6) Any animal that has bitten a person; or
- (7) Any animal violating any provision of this article.

(2006 Code, sec. 14-84; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.07.002 Right of owner or occupant to confine animal found on premises

If any of the animals named in this article are found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal in a humane manner until he can notify an animal control officer to come and impound such animal. When so notified, it shall be the duty of the animal control officer to have such animal impounded as provided in this article. The use of steel jaw traps, a spring trap with teeth, or any type of trap designed to reasonably ensure cutting, slicing, or tearing to capture animals is prohibited. (2006 Code, sec. 14-85; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.07.003 Interfering with humane trapping

A person commits an offense if the person interferes, removes, alters, damages or otherwise tampers with equipment belonging to or set out by the animal control division. (2006 Code, sec. 14-86; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.07.004 Notification of animal's owner

The animal control division shall make reasonable effort to contact the owner of any impounded animal that is wearing a current registration tag; however, final responsibility for locating and reclaiming an impounded animal is that of the owner. (2006 Code, sec. 14-87; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.07.005 Redemption of animal

An owner or harbinger can regain possession of any impounded animal upon payment of impoundment fees, handling fees and any veterinarian bills incurred by the animal control division for the welfare of the animal and upon compliance with vaccination and registration provisions of this chapter. Any person owning any animal

* **State law references**—Restraint, impoundment and disposition of dogs and cats, V.T.C.A., Health and Safety Code, sec. 826.033; impoundment of estrays, V.T.C.A., Agriculture Code, sec. 142.009.

impounded under this article shall be allowed to take such animal from the animal shelter or other place where impounded upon the following conditions:

- (1) Payment to the city of an impoundment fee as described in the fee schedule in appendix A of this code, plus an amount established in the adopted fee schedule per day or fractional part thereof for handling fees for each day impounded.
- (2) If the owner cannot provide proof of a current rabies vaccination, the animal must be revaccinated or vaccinated for rabies within five days of being reclaimed by the owner of the impounded animal. Animals less than 12 weeks of age will not require a rabies vaccination in order to be released.

(2006 Code, sec. 14-88; Ordinance 09-02-786, sec. 2, adopted 2/16/09; Ordinance adopting 2015 Code)

Sec. 4.07.006 Disposition of unclaimed animals

If the owner has not redeemed such impounded animal within three days from its capture and impoundment, the animal may be given to a nonprofit humane organization, placed for adoption, or humanely destroyed. Animals wearing a current city license tag will be held for six days prior to their disposition. (2006 Code, sec. 14-89; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.07.007 Owner relinquishing responsibility

An owner who no longer wishes responsibility for an animal, or does not desire to regain possession of an impounded animal, may, upon signing a waiver in a form provided by the animal control division, allow the animal to be placed for adoption, given to a humane nonprofit organization, or humanely destroyed; provided, however, that the animal has not bitten a human within the last ten days of the owner wanting to relinquish his responsibility of ownership. (2006 Code, sec. 14-90; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.07.008 Sick or injured animals

Any impounded animal which has been seriously injured or is seriously ill may be euthanized immediately to prevent suffering, or given to a nonprofit humane organization for the purpose of veterinary medical care, as determined by an animal control officer. The animal shelter shall not be responsible for providing veterinary care for any sick or injured animal. (2006 Code, sec. 14-91; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.07.009 Wild animals

Any impounded wild animal, unless there is a reason to believe that it has an owner, may be immediately disposed of as may be deemed appropriate by an animal control officer. (2006 Code, sec. 14-92; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.07.010 Baby animals

Any nursing baby animal impounded without the mother or where the mother cannot or refuses to provide nutritious meals may be immediately euthanized to prevent suffering or given to an individual or to a nonprofit humane organization for the purpose of caring for such animal. (2006 Code, sec. 14-93; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.07.011 Fees

- (a) Impoundment fee. Impoundment fees shall be as provided in the fee schedule in appendix A of this code.
- (b) Daily handling fee. A daily handling fee shall be charged for each and every day, or fraction thereof, that an animal is confined at the animal shelter. The daily handling fee shall be as provided in the fee schedule in appendix A of this code.

(c) Quarantine fee. The owner of any cat or dog held in quarantine for observation purposes shall also be charged a daily impoundment fee for each and every day or fraction of a day an animal is at the animal shelter, as specified in the fee schedule in appendix A of this code.

(2006 Code, sec. 14-94; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

Sec. 4.07.012 Adoption of animals

(a) A person may adopt an animal from the animal shelter under the following conditions:

- (1) The animal to be adopted must be classified as adoptable by the animal control division.
- (2) The prospective adopter has the proper facilities to care for the animal.
- (3) The prospective adopter completes the animal adoption agreement form.
- (4) The prospective adopter pays an adoption fee.

(b) The adoption fee includes sterilization, rabies vaccine, microchipping, collar, and a leash for dogs or a box type carrier for cats. Adopters of animals under four months of age will be provided with a sterilization voucher and must have the animal sterilized by a veterinarian designated by the city animal shelter when the animal reaches four months of age.

(c) The adoption fee may be waived for nonprofit humane animal rescue organizations in good standing with the city animal shelter. When the fee is waived for such organizations, no rabies vaccination or sterilization services will be provided. Nonprofit organizations that have the fee waived must present proof of rabies vaccination and sterilization within ten days from the date the animal is received from the city animal shelter. Additional time shall be allowed for animals less than four months of age.

(2006 Code, sec. 14-95; Ordinance 09-02-786, sec. 2, adopted 2/16/09)

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

CHAPTER 5

RESERVED

CHAPTER 6

BUSINESS REGULATIONS

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ARTICLE 6.01 GENERAL PROVISIONS***(Reserved)****ARTICLE 6.02 ALCOHOLIC BEVERAGES†****Division 1. Generally****Sec. 6.02.001 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:

Alcoholic beverage. Alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

Beer. A malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight, and does not include a beverage designated by label or otherwise by a name other than beer.

Child care facility. A facility licensed, certified, or registered by the department [state department of family and protective services] to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

Day care center. A child care facility that provides care for more than 12 children under 14 years of age for less than 24 hours a day.

Dealer. Means the same as that term is used in V.T.C.A., Alcoholic Beverage Code sec. 109.33, and shall include “person” as that term is defined in this section.

Open container. A container that is no longer sealed.

Person. A natural person or association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them.

Private school. A private school, including a parochial school, that:

- (1) Offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
- (2) Has more than 100 students enrolled and attending courses at a single location.

(2006 Code, sec. 10-1; Ordinance 04-12-630, sec. 2 (110.01), adopted 12/20/04)

Sec. 6.02.002 Penalty

Any person or dealer violating the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty or fine not to exceed \$500.00 for each offense. (2006 Code, sec. 10-99; Ordinance 04-12-630, sec. 2 (110.99), adopted 12/20/04; Ordinance 07-01-710, sec. 3, adopted 1/16/07)

* **Charter references**—Utility and public service franchises, art. X; licenses, sec. 11.09.

† **State law references**—Regulation of alcoholic beverages generally, V.T.C.A., Alcoholic Beverage Code; local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code, sec. 109.31 et seq.

Sec. 6.02.003 Sale prohibited near schools, churches or hospitals; exceptions

(a) It shall be unlawful for any dealer to sell alcoholic beverages from or at a place of business within this city within 300 feet of a church, public or private school, or public hospital.

(b) This section does not apply to the holder of:

- (1) A license or permit who also holds a food and beverage certificate covering premises that are located within 300 feet of a private school; or
- (2) A license or permit covering premises where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code sec. 109.53, and that is located within 300 feet of a private school.

(c) The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

(d) The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:

- (1) In a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- (2) If the permit or license holder is located on or above the fifth story of a multi-story building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

(2006 Code, sec. 10-2; Ordinance 04-12-630, sec. 2 (110.02), adopted 12/20/04)

State law reference—Sales near church, school or hospital, V.T.C.A., Alcoholic Beverage Code, sec. 109.33.

Sec. 6.02.004 Sale prohibited near day care centers and child care facilities; exceptions

(a) It shall be unlawful for any holder of a wine and beer retailer's permit, mixed beverage permit, private club registration permit, retail dealer's on-premises license, or brewpub license who does not hold a food and beverage certificate to sell alcoholic beverages from or at a place of business within this city within 300 feet of a day care center or child care facility.

(b) This section does not apply to a permit or license holder who sells alcoholic beverages if:

- (1) The permit or license holder and the day care center or child care facility are located on different stories of a multi-story building; or
- (2) The permit or license holder and the day care center or child care facility are located in separate buildings and either the permit or license holder or the day care center or child care facility is located on the second story or higher of a multi-story building.

(c) This section does not apply to a foster group home, foster family home, family home, agency group home, or agency home as those terms are defined by V.T.C.A., Human Resources Code sec. 42.002.

(d) The measurement of the distance between the place of business where alcoholic beverages are sold and the day care center or child care facility shall be:

- (1) In a direct line from the property line of the day care center or child care facility to the property line of the place of business, and in a direct line across intersections; or

- (2) If the permit or license holder is located on or above the fifth story of a multi-story building, in a direct line from the property line of the day care center or child care facility to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

(2006 Code, sec. 10-3; Ordinance 04-12-630, sec. 2 (110.03), adopted 12/20/04)

State law reference—Sales near day care center or child care facility, V.T.C.A., Alcoholic Beverage Code, sec. 109.331.

Sec. 6.02.005 Sale of beer prohibited in residential areas

It shall be unlawful for any person or dealer to sell beer in residential areas within the city. (2006 Code, sec. 10-4; Ordinance 04-12-630, sec. 2 (110.04), adopted 12/20/04)

State law reference—Authority of city to prohibit sale of beer in residential areas, V.T.C.A., Alcoholic Beverage Code, sec. 109.32.

Sec. 6.02.006 Late hours operation

The holder of a mixed beverage late hours permit issued by the state alcoholic beverage commission may sell or offer for sale mixed beverages between 12:00 a.m. and 2:00 a.m. on any day in accordance with the Texas Alcoholic Beverage Code. (2006 Code, sec. 10-22; Ordinance 10-08-850 adopted 8/16/10)

State law references—Mixed beverage late hours permit, hours of sale, V.T.C.A., Alcoholic Beverage Code, sec. 29.01.

Secs. 6.02.007–6.02.030 Reserved

Division 2. Permits and Licenses

Sec. 6.02.031 Required; fees

(a) Unless state law exempts a permittee or licensee from payment of a fee established by this section, a permittee or licensee must pay the city an annual permit or license fee of one-half (1/2) the amount of the state fee for each permit and license authorizing the sale of alcoholic beverages.

(b) An applicant shall pay the fees established under subsection (a) to the city no later than the 30th day after the date the applicant's payment of a state permit or license fee is due.

(c) A permittee and licensee who sells an alcoholic beverage at a business location before the applicant pays the fees established by this section commits a class C misdemeanor punishable by a fine of not less than \$10.00 nor more than \$200.00.

(d) The city secretary shall issue and deliver a receipt under this section to the permittee or licensee authorizing the sale of alcoholic beverages under this article and a state permit or license, if the permittee or licensee:

- (1) Pays the fees established by subsection (a); and
- (2) Exhibits the permit or license issued by the state.

(2006 Code, sec. 10-20; Ordinance 07-01-710, sec. 2, adopted 1/16/07)

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. 6.02.032 Review of application; certificate of wet/dry status; records

Prior to issuing a city permit to an applicant for the proposed location, the city secretary shall certify whether the location is located in an area that is wet and that the sale of alcoholic beverages at this location is not prohibited by charter or ordinance. The city secretary shall keep a record of all permits and certificates issued under this article. (2006 Code, sec. 10-21; Ordinance 07-01-710, sec. 2, adopted 1/16/07)

ARTICLE 6.03 ALARM SYSTEMS***Sec. 6.03.001 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:

Alarm site. A location or premises served by an alarm system.

Alarm system. A device or system which transmits a signal which summons an emergency service of the city. The categories of alarm systems are robbery, burglary, fire, emergency medical assistance, and emergency assistance. The term “alarm system” does not mean an alarm installed on a vehicle, unless used for a habitation at a permanent site, or an alarm designed to alert only the inhabitants within premises, but does include an alarm that emits an audible signal on the exterior of a structure.

Alarm systems company. Any person or company that sells, installs, services, monitors, or responds to burglar alarm signal devices, burglar alarms, television cameras, still cameras or any other electrical, mechanical, or electronic device used:

- (1) To prevent or detect burglary, theft, shoplifting, pilferage, or other losses of that type;
- (2) To prevent or detect intrusion; or
- (3) Primarily to detect and summon aid for other emergencies, and includes persons relaying alarm notifications.

Burglar alarm notification. A notification which summons the police, which is initiated or triggered by an alarm system designed to respond to a stimulus characteristic of unauthorized intrusion.

Commercial alarm. An alarm that is directly monitored by the public safety communications department.

Director. The police chief or his authorized representative.

Emergency assistance alarm. Any automatic notification system other than those defined herein which summons emergency assistance from the city.

Emergency medical assistance alarm notification. An alarm system which summons emergency medical assistance.

False burglar alarm notification. A burglar alarm notification to the police, when the responding police officer reasonably finds there is no evidence of unauthorized intrusion or attempted unauthorized intrusion.

* **State law references**—Burglar alarm systems, V.T.C.A., Local Government Code, sec. 214.191 et seq.; municipal authority to enact ordinances regulating alarm systems, V.T.C.A., Local Government Code, sec. 233.095; fire detection and alarm device installation, V.T.C.A., Insurance Code, ch. 6002; Private Security Act, V.T.C.A., Occupations Code, ch. 1702.

False emergency medical assistance alarm notification. An emergency medical assistance alarm notification to the fire department, when the responding fire department personnel reasonably find there is no evidence of need for emergency medical assistance.

False fire alarm notification. A fire alarm notification to the fire department, when the responding fire department personnel reasonably find there is no evidence of a fire having occurred.

False robbery alarm notification. A robbery alarm notification to the police, when the responding police officer reasonably finds there is no evidence of a robbery.

Financial institution. An institution required to have an alarm system by the provisions of the Bank Protection Act of 1968 (12 USC 1882, as amended).

Fire alarm notification. A notification which is initiated or triggered by an alarm system designed to react to any of the visual or physical characteristics of fire.

Local alarm. An alarm system that emits a signal at an alarm site that is audible from the exterior of a structure.

Robbery alarm notification. A notification when a robbery occurs by means of an alarm system designed to be purposely activated by an individual.

(1993 Code, sec. 98.01; 2006 Code, sec. 6-1; Ordinance 375 adopted 4/3/95)

Sec. 6.03.002 Permit

(a) **Required.** A person commits an offense if he installs, operates or causes to be operated an alarm system without first obtaining a permit from the chief. A separate permit is required for each alarm site.

(b) **Contents of application.** Each permit application must contain the name, address and phone number (home and business) of the person who is responsible for the proper maintenance and operation of the alarm system and payment of fees or charges levied under this article. Each permit application must also contain the name, address and phone number (home and business) of at least two persons who are able and have agreed to receive notification from a member of the police department or fire department at any time and to come to the alarm site within 30 minutes after receiving notification. Application for a permit under the provisions of this article constitutes a grant of approval to the city to deactivate an alarm system that sounds an alarm signal for longer than 30 minutes after being notified.

(c) **False statements.** Any false statement or misrepresentation of a material fact made by an applicant for the purpose of obtaining an alarm permit or renewal, or for the purpose of making a change thereto, shall be sufficient cause for refusal to grant or suspension of a permit.

(d) **Fees; term; renewal.** A nonrefundable fee as established by the fee schedule is required for each alarm system permit, which includes the operation of the alarm for one year. A permit for each residential or commercial alarm permit or renewal of a permit as determined from time to time by the city council is due no later than January 31st of each year thereafter and prorated for any period included within the first year of operation depending upon the date of the original permit application. (As an example, a permit issued in June would be prorated at renewal by six months and would expire December 31 of the first year.) Each year thereafter, the full permit fee would be due as specified in appendix A. It is the responsibility of the permit holder to pay the renewal fee no later than the end of the month following the renewal month. If the permit is not renewed by the end of the month, the alarm permit is cancelled.

(e) **Issuance.** Upon receipt of the required fee and completed application form, the chief shall issue a permit unless there is reasonable cause to believe the equipment responsible for initiating an alarm will not be maintained or operated in accordance with this article or the applicant will not comply with each provision of this article. Burglary/robbery commercial alarms will be limited to financial institutions. Fire commercial alarms

will be limited to high-risk loss of life occupancies such as hotels, motels, hospitals, nursing homes, residential care facilities, educational uses, including day care centers, and theaters.

(f) Transferability; change of individual designated to respond. An alarm permit cannot be transferred to another person. However, the individual designated to respond to an alarm or relay an alarm may be changed. A permit holder must promptly inform the chief in writing of any change that alters information listed on the permit application. No fee will be assessed for such changes.

(g) Denial of issuance; suspension.

(1) Written notification; right of appeal; hearing. If the chief denies the issuance of a permit, or suspends a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action setting forth the reason for such action and advising the applicant or permit holder of the right to an appeal. The applicant, or permit holder, may appeal the decision of the chief to the municipal court of the city by filing with the court a written request for a hearing, setting forth his objections to the action of the chief, within ten days after receipt of the notice from the chief. The filing of a request for an appeal hearing with the municipal court shall stay the action of the chief in denying the issuance of or suspending a permit until a final decision on the appeal is made by the municipal court. If a request for an appeal hearing is not made within the ten-day limit, the action of the chief is final.

(2) Conduct of hearing; evidence; decision. The judge of the municipal court shall preside at any administrative hearing conducted under the provisions of this section and shall consider evidence offered by any interested person. The formal rules of evidence shall not apply at such hearing. The judge of the municipal court shall make a decision on the basis of a fair preponderance of the evidence presented and matters officially noticed at the hearing. The judge of the municipal court shall render a written decision setting forth findings of fact and conclusions of law within 30 days after the request for an appeal hearing is filed. Such decision shall affirm, reverse, or modify the action of the chief and the judge's decision is final.

(h) Penalty for operation without permit. A person commits an offense if he operates any alarm system as defined in this article without having a valid permit in accordance with the provisions of this article, and upon conviction thereof shall be punished as provided in section 1.01.009.

(i) Verification of city permit required by alarm vendor. No alarm vendor may install a burglar or fire alarm without first verifying that the homeowner or business owner has obtained a city permit for the operation and installation of an alarm system.

(1993 Code, sec. 98.02; 2006 Code, sec. 6-2; Ordinance 375 adopted 4/3/95; Ordinance 09-05-801, sec. 2, adopted 5/18/09; Ordinance adopting 2015 Code)

Sec. 6.03.003 Inspection of alarm site and system

Upon reasonable notification, the police chief or his designee, or fire chief or his designee, may inspect an alarm site and alarm system of a permit holder during regular business hours. (1993 Code, sec. 98.03; 2006 Code, sec. 6-3; Ordinance 375 adopted 4/3/95)

Sec. 6.03.004 Responsibilities of permit holders

(a) Generally. A permit holder must:

(1) Adjust or modify the sensory mechanism of his alarm system to suppress false indications of force so that the alarm system will not be activated by impulses due to:

(A) Transient pressure changes in water pipes;

- (B) Flashes of light;
 - (C) Wind noise caused by the rattling or vibrating of doors or windows;
 - (D) Vehicular noise adjacent to the installation; and
 - (E) Other forces unrelated to actual emergencies.
- (2) Maintain the premises containing an alarm system in a manner that ensures proper operations of the alarm system. It is the responsibility of the alarm permit holder to properly maintain the alarm system to prevent false activations. Should a permit holder have more than two activations within 30 days, an inspection of the alarm system will be required by a licensed repairman. Notice must be made in writing to the police alarm coordinator from the repairman of findings of the inspection within 30 days. Failure to do so will result in cancellation of the alarm permit.
- (3) If the permit holder or an emergency contact person is contacted to inspect an unsecured building or residence, and fails to respond to the scene in the allowed time of 30 minutes to secure the building or residence, a fee as established in the adopted fee schedule will be charged to the operator if city representatives have to secure the premises. The city is not responsible for loss or damage. Failure of the operator to pay the assessed fee will result in cancellation of the permit.
- (b) Automatic alarm notifications. A permit holder whose alarm system transmits automatic alarm notifications, other than alarm notifications from financial institutions, directly to the city over the normal telephone system shall:
- (1) Transmit the alarm in the form and content specified by the city;
 - (2) Transmit over telephone lines designated for such use;
 - (3) Design his system so that it will notify the permit holder, or his designated agent identified on the permit application, when an alarm is transmitted to the city; and
 - (4) Furnish the name, address, and telephone number of a licensed alarm company responsible for correcting any malfunction that may occur.
- (c) Reporting alarm signals through relaying intermediary person. A permit holder shall not report his alarm signals through a relaying intermediary person that does not meet the requirements of this article.

(1993 Code, sec. 98.04; 2006 Code, sec. 6-4; Ordinance 375 adopted 4/3/95; Ordinance adopting 2015 Code)

Sec. 6.03.005 Responsibilities of persons relaying alarm notifications; service fees

- (a) General responsibilities. A person who is engaged in the business of relaying alarm notifications to the city shall:
- (1) Send notification of an alarm to the city by an individual;
 - (2) Keep his business premises locked and secured at all times;
 - (3) Allow an inspection of his business premises by authorized agents of the police chief or the fire chief at any time;
 - (4) Report alarms only to a telephone number, or numbers, designated by the city;
 - (5) Send alarm notifications to the city in a manner and form determined by the city;

- (6) Maintain sufficient staff to ensure that valid alarms are relayed immediately to the city;
- (7) Inform their customers of permit requirements; and
- (8) Relay current permit numbers with all alarms.

(b) Service fee. An alarm system company may be assessed a service fee as established in the adopted fee schedule for each incorrect permit number relayed to the city with an alarm notification. Notification of any such assessment and appeal therefrom shall be as provided for in section 6.03.002(g). Any service fee assessed under the provisions of this section must be paid within 30 days after receipt of notice that it has been assessed by the chief. If the assessed fees become 90 days delinquent, a ten percent late charge will be added.

(1993 Code, sec. 98.05; 2006 Code, sec. 6-5; Ordinance 375 adopted 4/3/95; Ordinance adopting 2015 Code)

Sec. 6.03.006 Local alarms

(a) A person in control of a local alarm must:

- (1) Adjust the mechanism so that an alarm signal will sound for no longer than 20 minutes after being activated;
- (2) Display in a prominent exterior location an identification notice provided by the chief; and
- (3) Come to the alarm site within 30 minutes after receiving a request from a member of the police department or the fire department to do so and grant access to the site and deactivate the alarm if necessary.

(b) If a mechanism sounds an alarm signal for longer than 30 minutes after notification is made, the chief of the police department, the chief of the fire department or their designated representatives are authorized to enter the building to disable the alarm. All costs of the city in disabling such an alarm shall be assessed to the operator of the alarm system and shall be paid to the city within 30 days after the operator has received notice that the costs have been assessed. Application for a permit under the provisions of this article constitutes a grant of approval by the operator of the alarm system for the city to deactivate the local alarm system under the provisions of this subsection.

(c) A person in control of a local alarm or alarm system that causes an alarm notification to be sent directly to the city shall adjust or modify the mechanism so that upon activation the system will transmit only one alarm signal and will not transmit another alarm signal without first being manually reset at the alarm site.

(1993 Code, sec. 98.06; 2006 Code, sec. 6-6; Ordinance 375 adopted 4/3/95)

Sec. 6.03.007 Determination of false alarms

(a) The chief shall not consider an alarm notification to be false if he determines that the alarm was caused by:

- (1) A natural or man-made catastrophe;
- (2) Severe weather that causes physical damage to the premises;
- (3) Vandalism;
- (4) Telephone line outage;
- (5) Attempted entry or attempted robbery; or

- (6) In high-risk of loss of life occupancies such as hotels, motels, hospitals, nursing homes, residential care facilities, educational uses including day care centers, and theaters where a fire alarm was:
 - (A) Caused by undetermined means; or
 - (B) Caused by conditions not under control of the building management such as manual false alarms, or smoking.

(b) The determination of the chief in classifying an alarm notification as false or actual is final.

(1993 Code, sec. 98.08; 2006 Code, sec. 6-7; Ordinance 375 adopted 4/3/95)

Sec. 6.03.008 False alarm service fees

A permit holder must pay any service fee assessed under the provisions of this section in accordance with the adopted fee schedule.

- (1) Burglar and robbery alarms. A permit holder will be assessed a fee for the signaling of a false alarm by a burglar/robbery alarm system in excess of three false alarms which have occurred during the previous 12-month period. This fee will be determined by the city council from time to time and as printed in appendix A to this code for each such false alarm in excess of three false alarms.
- (2) Fire alarms. A permit holder will be assessed a fee for the signaling of a false alarm by a fire alarm system in excess of three false alarms which have occurred during the previous 12-month period. This fee will be determined by the city council from time to time and as printed in appendix A to this code.
- (3) Medical assistance alarms. A permit holder will be assessed a fee for the signaling of a false alarm by a medical assistance alarm system in excess of three false alarms which have occurred during the previous 12-month period. This fee will be determined by the city council from time to time and as printed in appendix A to this code.
- (4) Emergency assistance/personal distress alarms. A permit holder will be assessed a fee for the signaling of a false alarm by an emergency assistance/personal distress alarm system in excess of three false alarms which have occurred during the previous 12-month period. This fee will be determined by the city council from time to time and as printed in appendix A to this code.

(1993 Code, sec. 98.09; 2006 Code, sec. 6-8; Ordinance 375 adopted 4/3/95; Ordinance 09-05-801, sec. 2, adopted 5/18/09; Ordinance adopting 2015 Code)

State law reference—Penalties for false alarms, V.T.C.A., Local Government Code, sec. 214.197.

Sec. 6.03.009 Failure to pay service fee

The chief shall suspend or refuse to renew an alarm system permit for failure to pay any service fee. (1993 Code, sec. 98.10; 2006 Code, sec. 6-9; Ordinance 375 adopted 4/3/95)

ARTICLE 6.04 PEDDLERS AND SOLICITORS***Sec. 6.04.001 Purpose**

This article shall be deemed an exercise of the police powers of the state and of the city for the public safety, comfort, convenience, and protection of the city and the citizens thereof, and all of the provisions of this article shall be constructed for the accomplishment of that purpose. (2006 Code, secs. 22-121, 54-1; Ordinance 04-03-602, sec. 2 (112.01), adopted 3/1/04)

Sec. 6.04.002 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:

Charitable purpose. The solicitation of money or property for the benefit of a charity, philanthropy, or nonprofit organization or for poor, underprivileged, needy, crippled, or handicapped persons; for the teaching of patriotism or assistance to veterans or veteran's organizations; or for existing educational institutions or for the establishment or endowment of educational institutions. Nonprofit organizations shall include but not be limited to Multiple Sclerosis, American Heart Association, Muscular Dystrophy, American Cancer Society, Boy Scouts of America, Girl Scouts, etc.

Consumer. An individual who acquires real or personal property, services, money, or credit for personal, family or household purposes.

Parkway. The area between the edge of the designated street and the adjacent owner's property line.

Peddler, solicitor or person. Any individual, firm, company, partnership, corporation, association, trust, society, religious sect, organization, league, or other legal entity and includes any trustee, receiver, assignee, agent, or similar representative.

Religious organization. An organization that is dedicated to the support of a church, religious society, or any other religious sect, group, or order.

Sidewalk. Any surface provided for the exclusive use of pedestrians.

Solicitation. Conduct whereby a person or his agent, member, or representative:

- (1) Either orally or in writing, asks for a ride, employment, property, financial aid, money, or any article representing monetary value, for any purpose;
- (2) Whether orally or in writing, sells or offers to sell goods, services, publications, or subscriptions;
- (3) Distributes without remuneration goods, services, publications, or subscriptions;
- (4) Solicits signatures on a petition or opinions for a survey.

The term "solicitation" shall include persons engaged in the delivery of handbills or circulars door to door for the solicitation of money, products, services or other items of pecuniary value. An offer of membership in any organization is expressly excluded.

Street. The portion of the street that is paved, designated, or used for vehicular traffic, and all areas dedicated to public use for public street purposes, which includes parkways, alleys, and sidewalks.

* **State law reference**—Authority of municipality to license, tax, suppress, prevent, or otherwise regulate peddlers, hawkers and pawnbrokers, V.T.C.A., Local Government Code, sec. 215.031.

Traffic island. A barrier within a street or roadway to exclude vehicles, designated for the purpose of separating or directing streams of vehicular traffic.

(2006 Code, secs. 22-122, 54-2; Ordinance 04-03-602, sec. 2 (112.02), adopted 3/1/04)

Sec. 6.04.003 Penalty

Any person violating any of the provisions or terms of this article shall be deemed guilty of a misdemeanor and, upon conviction, be punished by a fine not to exceed the sum of \$500.00 for each offense, and each and every day such violation shall continue be deemed to constitute a separate offense. Allegation and evidence of a culpable mental state is not required for proof of any offense defined by this article. (2006 Code, secs. 22-127, 54-7; Ordinance 04-03-602, sec. 2 (112.07), adopted 3/1/04)

Sec. 6.04.004 Permits

(a) Permit required; restrictions.

- (1) It shall be unlawful for any person to attempt or to peddle, sell, solicit, canvass, or take orders for any services, wares, merchandise, or goods, or any article of value, including plants, flowers, paintings, novelties, painting house numbers on streets, firewood, books, magazines, photographs, or any articles for future delivery, on a sidewalk, parking lot or parkway within the city or from door to door without having first obtained a permit therefor from the city.
- (2) Each person engaged in peddling or soliciting or selling as defined in subsection (a)(1) of this section must have a permit issued under the terms of this section, and such permit shall be personal to the applicant and shall not be reproduced nor assigned nor transferred to any other person. Any such attempted transfer or reproduction shall render the permit void.
- (3) Each permit shall expire as of the date noted thereon, which date shall be in accordance with the provisions of this article, and such permit shall indicate the hours when peddling, solicitation and selling within the city is permitted in accordance with the provisions of this article.
- (4) It shall be unlawful for any person who shall solicit funds in the city to represent in connection with such solicitation of funds that the issuance of a permit or identification card by the city constitutes an endorsement thereof.
- (5) It shall be unlawful for any person to solicit funds for a purpose other than that set out in the registration statement or application upon which the permit was issued.
- (6) A permit shall not be issued to any person under 13 years of age.
- (7) Solicitation shall be deemed completed when made, regardless of whether the person making the solicitation receives any contribution or makes any sale.

(b) Application. Every person desiring to solicit in the city shall unless otherwise excepted apply for a permit from the city permits and inspections department. Each application for a permit required by this section shall be in writing, under oath, notarized and shall set out the following:

- (1) Name of the applicant, with his permanent residence;
- (2) Whether the person represents a partnership, corporation or association, and:
 - (A) The business address and telephone number of the applicant;
 - (B) If a partnership, the names of all partners and the principal business address and telephone number of each partner;

- (C) If a corporation, the person applying shall state whether it is organized under the laws of the state or is a foreign corporation, and must show the mailing address, business location, telephone number, the name of the individual in charge of the city office of such corporation, and the names and addresses of all officers and directors or trustees of said corporation, and, if a foreign corporation, the place of incorporation;
- (D) If an association, the application shall show the association's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association unless they exceed ten in number, in which case the application shall so state and the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is part of a multi-state organization or association, the mailing address and business locations of its local office;
- (3) Name and address of each person to solicit under the permit;
- (4) The names, mailing address and telephone number of all individuals who will be in direct charge or control of the solicitation of funds;
- (5) The kind, type and character of goods or services he proposes to offer for sale, including the name brand, manufacturer and distributor of goods and commodities and the name, publisher and distributor of all books, magazines or periodicals to be offered for sale;
- (6) Names and addresses of five persons as references, excluding relatives and persons living with the applicant;
- (7) How often the applicant will solicit during the year;
- (8) The time period within which the solicitation of funds is to be made, giving the date of the beginning of solicitation and its projected conclusion;
- (9) A description of the methods and means by which the solicitation of funds is to be accomplished;
- (10) The names of any cities where the applicant has worked within the previous six months;
- (11) Whether the applicant, or any solicitor listed in the application, has ever been convicted of a felony or a misdemeanor involving moral turpitude;
- (12) State driver's license number or a state-approved identification card number of applicant and each solicitor;
- (13) Social security number of the applicant and each solicitor.
- (c) Attachments. In addition, there shall be attached to each application for a permit the following:
 - (1) Two recent photographic likenesses of the applicant's face, and any solicitor soliciting under said permit, which photographs shall not exceed one inch square in size.
 - (2) A certificate or letter from the president, vice-president, general manager, sales manager, assistant sales manager or district or area manager of the company for which the applicant works, sells or solicits stating that the applicant is an employee and/or agent of such company.

- (3) A reference to a recognized financial rating publication, which reference shall show the page on which the company's or firm's financial standing can be found; or a letter or a certificate from an association or organization which has as its purpose the protection of citizens of the United States against illegal or unsavory business practices stating that the firm or company is a member in good standing of such association or organization.
 - (4) In the event that the applicant is an individual who is not canvassing, selling or soliciting for any firm or company, letters of recommendation from two citizens of the applicant's permanent residence shall be submitted.
- (d) Application fee. The fee for a permit under this article shall be determined by the currently adopted city fee schedule, as printed in appendix A to this code. No fee shall be required of those persons engaging in interstate commerce.
- (e) Investigation of applicant. It shall be the duty of the chief building inspector, or his authorized designee, to secure a background check through any lawful means on each applicant, and all other persons listed on the application, before issuance of a permit, which investigation may include but is not necessarily limited to personal interviews with named individuals, criminal history checks, verification of references and information contained within the application.
- (f) Issuance of permit. A permit applied for under this article shall be issued by the city permits and inspections department not earlier than two and not more than ten business days after the application is completed and filed, unless it is determined that the applicant has provided false or incomplete information on his application. A permit requested under this article shall be issued for the length of time requested, not to exceed ninety (90) days. An expired permit may be renewed under the same terms and conditions as the original application and subject to the same fees.
- (g) Form of permit. Each permit shall be printed in black except that the following shall be printed prominently thereon in red: "The issuance of the permit is not an endorsement by the city or any of its officers or employees." Each permit shall bear a permit number which is the same as the file containing the application filed by the applicant.
- (h) Permit to be displayed. It shall be unlawful for any person to sell or solicit in the city without carrying the identification card and displaying the permit required by this section on his person, in plain view, while engaged in such soliciting or selling.
- (i) Exhibiting permit. Every solicitor or peddler or seller shall identify himself as a salesman upon approaching a citizen in a public place or at a private dwelling and explain his purpose, whether it be direct sales, solicitation of orders or the demonstration of goods or merchandise, or any combination of purposes thereof, and shall produce for inspection, upon request by any person, the solicitor's permit issued by this city.
- (j) Solicitors' identification cards. Each identification card issued by the city permits and inspections department shall bear the name of the applicant, the application number, the name of the solicitor or agent, and the expiration date of the permit, and it shall have printed prominently thereon in red: "This identification card is not an endorsement of the solicitation by the city or any of its officers or employees. It is your duty to verify all information given to you by this solicitor." The applicant shall provide, by a separate list, the names and addresses of all agents or employees for whom identification cards are to be issued.
- (k) Responsibility for acts of solicitors. The recipient of a permit or named applicant shall be responsible for the acts of his authorized representatives or solicitors listed in the permit application in connection with solicitation activities. In this regard, the recipient of the permit shall actively supervise all persons listed in the permit application, which supervision shall include but not be limited to remaining within the corporate city limits during all solicitation activity and responding promptly (within ten minutes) to calls by city representatives relative to the solicitation activity, which may include responding to an on-site complaint from a citizen.

(l) Revocation of permit.

- (1) If, after the permit required by this section has been issued, the building official, or his authorized designee, finds that the permit was obtained by false representation in the application, or the permit has been reproduced or transferred or assigned to another person, or the applicant has led someone to believe the permit is an endorsement of the applicant's product or service by the city, or in the event of fraud or misrepresentation by the permit holder, or in the event of conviction of the permit holder of a felony or a misdemeanor involving moral turpitude, or in the event the permit holder has failed to furnish the items required by this article, such permit may be revoked by the city building official or his authorized designee.
- (2) If a police officer or the building official has probable cause to believe that a solicitor has engaged in prohibited conduct as defined by this article, the officer may revoke the permit of the permit holder.
- (3) If more than one complaint of misconduct by a solicitor or group of solicitors working for the same company is received, the permit may be immediately revoked by the city.

(m) Appeal from denial or revocation of permit. Should an applicant be denied a permit, or have a permit revoked, he may appeal that action to the city manager by submitting a letter to the city building official within ten days to complain of the action. The city manager shall render a decision on the appeal within 15 days of receipt of the letter. No new application for a permit will be considered for six months after denial or revocation, unless said denial or revocation is without prejudice or is conditional and the conditions have been satisfied as determined by the city building official.

(n) Exemptions. The following are exempt from the permit requirements of this section:

- (1) The following persons engaged in the activities set out in subsections (n)(1)(A) through (C) of this section in the city shall first register with the permits and inspections department by filling out a form to be promulgated by the city buildings and inspections department in accordance with the provisions of this article and by furnishing proof that he is actually engaged in such activity in the city, and the city building official shall issue to such person a registration certificate exempting him from the terms and conditions of this section and from paying a fee therefor, namely:
 - (A) Public utility companies or others operating under a franchise granted by the city;
 - (B) Commercial agents dealing with local business establishments in the usual course of business; and
 - (C) Insurance salesmen, real estate salesmen and others licensed by the state.
- (2) Solicitations related to children's activities, including but not limited to Girl Scouts, Boy Scouts, and Big Brothers and Sisters, which may involve children under the age of 13 years. Children under the age of 13 years may participate in such activities to the extent they are actively supervised by a parent, guardian or other adult person, at least 18 years of age, who is responsible for the well-being of the child.
- (3) Religious, political or nonprofit organizations and their representatives distributing handbills or pamphlets only for the purpose of communicating issues of general interest to the public need not register with the city permits and inspections department or pay a permit fee. A donation received from the distribution of handbills or pamphlets does not affect this exemption.
- (4) Ordinary commercial travelers who sell or exhibit for sale goods, wares or merchandise to persons selling and dealing in the same within the city. This exemption applies only to commercial vendor sales.

- (5) Vendors of farm products including vegetables, poultry, eggs and other farm products.

(o) Bond. Each person engaging in solicitation activities requiring cash deposits or taking orders on delivery purchases (COD) or who requires a contract of agreement to finance the sale of any goods, services or merchandise for future delivery, or for services to be performed in the future, shall furnish to the city a cash surety bond in the amount of \$5,000.00, naming the applicant for the permit as principal. The bond shall be in full force and effect for one year from the date of issuance of the permit, unless otherwise extended by demand of the city due to the revocation of the permit, or an anticipated delivery date beyond 12 months, in order to protect the citizens of the city from potential losses associated with such solicitations.

(2006 Code, secs. 22-123, 54-3; Ordinance 04-03-602, sec. 2 (112.03), adopted 3/1/04; Ordinance adopting 2015 Code)

Sec. 6.04.005 Public disclosure of permit applications

All applications for a permit under this article, whether or not a permit has been issued, shall be a public record and shall be available for inspection by members of the public during regular business hours, and copies may be obtained at cost. (2006 Code, secs. 22-128, 54-8; Ordinance 04-03-602, sec. 2 (112.08), adopted 3/1/04)

Sec. 6.04.006 Prohibited locations, activities and conduct

(a) It shall be unlawful for any person to peddle, solicit, hawk, sell or take orders for or offer to take orders for any item or service in the following places in the city:

- (1) On any public street or alley or traffic island.
- (2) Within 25 feet of the following facilities:
 - (A) ATM machines.
 - (B) Entrances and exits of banks, credit unions, or other financial institutions.
 - (C) Exterior public pay telephones.
 - (D) Self-service carwashes.
 - (E) Self-service fuel pumps.
 - (F) Public transportation stops.
- (3) Any residence which shall exhibit in a conspicuous place upon or near the main entrance to the residence [a card] containing the words "NO SOLICITORS." The letters shall be not less than two-thirds of an inch in height and should be displayed on a weatherproof card not less than three inches by four inches in size.

(b) It shall be unlawful for any person to block or obstruct or hinder the free flow of traffic in the lawful use of the street or free passage of pedestrians in the lawful use of the sidewalk. No solicitations, sales, or distribution of merchandise, products, or service shall be offered or made to occupants of motor vehicles moving or stopped in traffic on a public street or alley.

(c) It shall be unlawful for a person engaged in solicitation to:

- (1) Misrepresent the purpose of the solicitation;
- (2) Misrepresent the affiliation of those engaged in the solicitation;

- (3) Continue efforts to solicit from an individual once that individual informs the solicitor that he does not wish to give anything to or buy anything from that solicitor;
- (4) Represent the issuance of any permit or registration under this article as an endorsement or recommendation of the solicitation;
- (5) Remove, deface, or render illegible a card placed by the occupant of a residence pursuant to subsection (a)(3) of this section;
- (6) Go on property upon which the owner of the property or the person controlling the property has posted signs prohibiting solicitation; or
- (7) Remain on property after the property owner, or the property owner's designee, representative or agent, has instructed the solicitor to leave.

(d) No solicitor, or person working on his behalf, shall shout, make an outcry, blow a horn or whistle, or use any sound device, including any sound-amplifying system, upon any of the streets, avenues, alleys, parks or other public places of the city, or otherwise be in violation of the city's noise ordinance as set out in article 14.04 of this code.

(e) No person shall engage in solicitation through the delivery of handbills or circulars by placing said handbills or circulars on motor vehicles, public utility posts, or other location such that the same constitutes littering under V.T.C.A., Health and Safety Code ch. 365. It is presumed that the person or business whose address or telephone number is listed in the notice, poster, paper, or device, or who is otherwise named, described, or identified in the notice, poster, paper, or device, is the person or business who committed the violation, either personally or through an agent or employee.

(f) It shall be unlawful for any person to use children 13 years of age or younger for solicitation activities, unless otherwise expressly permitted herein, unless such children are actively supervised by a parent, guardian or other adult person at least 18 years of age who is registered as provided herein. For purposes of this section, the term "actively supervised" means that the adult person shall be within 100 feet of all children 13 years of age or younger for whom the adult person is responsible at all times when the children are engaged in solicitation activities.

(g) It shall be an affirmative defense to prosecution under this article if the person is occupying the public right-of-way for the purpose of selling newspapers or publications or other printed material which deals with the dissemination of information or opinion; however, this defense is not available if said act occurred upon the paved surface or shoulder of any public street, highway or road.

(2006 Code, secs. 22-124, 54-4; Ordinance 04-03-602, sec. 2 (112.04), adopted 3/1/04)

State law reference—Solicitation of business by pedestrian, V.T.C.A., Transportation Code, sec. 552.007.

Sec. 6.04.007 Times when soliciting prohibited

No person shall peddle, solicit, hawk, sell or take orders for or offer to take orders for any item or service at a private residence in the city after sunset on any day until 9:00 a.m., Monday through Saturday, unless the transaction is the result of a request made to such person by the occupant of such private residence. "Sunset" means the time of day identified by the National Weather Service as the time for sunset for that day for the city. There shall be no solicitations on Sunday, New Year's Day, Fourth of July, Memorial Day (observed), Labor Day (observed), Thanksgiving, or Christmas Day. (2006 Code, secs. 22-125, 54-5; Ordinance 04-03-602, sec. 2 (112.05), adopted 3/1/04)

Sec. 6.04.008 Consumer's right to cancel transaction

(a) The merchant, peddler, or seller shall provide to the consumer in writing the right to cancel a solicitation transaction made in person or by telephone in which the consideration exceeds \$5.00, until midnight of the third business day after the day on which the consumer signs an agreement or offer to purchase in a solicitation transaction. For purposes of a telephone solicitation, date of transaction means the day that the consumer receives the goods, services, or realty purchased in a solicitation transaction.

(b) If the consumer chooses to cancel the solicitation transaction, notification by mail shall be considered given at the time mailed as evidenced by the postmark, notification by telegram shall be considered given at the time filed for transmission, and notification by any other writing shall be considered given at the time delivered to the merchant's designated place of business.

(c) It shall be unlawful for a merchant, peddler, or seller to refuse to allow the customer to cancel the solicitation transaction.

(d) Cancellations authorized, and the procedure and notice requirements set forth in V.T.C.A., Business and Commerce Code ch. 39, as it may be amended, are applicable to this section, for transactions applicable thereunder.

(2006 Code, secs. 22-126, 54-6; Ordinance 04-03-602, sec. 2 (112.06), adopted 3/1/04)

State law reference—Cancellation of certain consumer transactions, V.T.C.A., Business and Commerce Code, ch. 39.

Sec. 6.04.009 Vehicles and equipment used in vending business; restrictions on vending done from vehicle

(a) All vehicles used in such vending service shall obey all traffic laws. Violation of traffic laws, including but not limited to driving or parking such vending vehicles on the wrong side of the street, shall be grounds for revocation of the permit.

(b) All vehicles and other equipment used in the vending business shall be inspected and approved by the city health department or city health officer prior to issuance of any permit and shall be subject to periodic health inspections as deemed necessary by the city health officer. A permit shall be subject to immediate revocation upon recommendation by the city health officer. Such revocation may be made permanent or may be made temporary pending correction of the condition causing the revocation and the health officer's recommendation that the permit be reinstated.

(c) Vending vehicles shall limit the use of bells, music or other attention-getting devices so as not to disturb the peace and tranquility of persons living or working within the area being served. Failure to do so, based upon complaints received by the city, shall be grounds for revocation of the permit.

(d) Vendors using vehicles in their service such as the ice cream vending vehicle, who customarily serve children at the street curb, shall, for safety purposes, be permitted to operate in residential areas only during the hours between 7:00 a.m. and 9:00 p.m.

(e) Any vendor using a vehicle in such vending service, where such vending is done from the vehicle while located in the public street or at the street curblane, shall file with the city a certificate of liability insurance covering such activity and the operation of such vehicle in at least the amount of \$100,000.00 for property damage liability, \$100,000.00 bodily injury liability for each person and \$300,000.00 bodily injury liability for each occurrence. Failure to file such certificate or maintain such insurance coverage shall be grounds for revocation of permit.

(2006 Code, secs. 22-129, 54-9; Ordinance 04-03-602, sec. 3 (112.09), adopted 3/1/04)

ARTICLE 6.05 GARAGE SALES**Sec. 6.05.001 Permit required; restrictions**

Garage sale. Occasional sales on residential premises, not to exceed three in number on the same property in any one calendar year, provided that:

- (1) Garage sales may only occur after the city has issued a permit to conduct the sale. Permits will only be issued to individuals who are residents of the city. The permit to conduct the sale must be displayed on the premises the entire duration of the sale. The permit must contain the name and address of the person conducting the sale. There is no fee for the permit.
- (2) Merchandise is not acquired solely for the purpose of resale on the premises.
- (3) The duration of sale shall not exceed three consecutive calendar days.
- (4) Signage for which shall be in conformance with the requirements of this article.
 - (A) Signs must be removed after completion of the sale.
 - (B) Placement of signs on overpasses, utility poles, trees, medians, traffic signs or other such public property is expressly prohibited.
 - (C) Signs must not exceed five square feet in area and may not exceed 40 inches in height.
 - (D) Signs shall not be placed in such a way as to create a traffic hazard. The edge of signs shall be placed no closer than three feet from the street curb or edge of the pavement.
 - (E) Signs must be securely anchored. Signs may not be mounted on or placed in vehicles.

(2006 Code, sec. 22-401; Ordinance 07-11-740, sec. 2, adopted 11/19/07)

ARTICLE 6.06 SECONDARY METALS RECYCLERS***Sec. 6.06.001 Purpose**

This article is an exercise of the city's police power to promote, through regulation of secondary metals recyclers, the recovery of stolen property. This article provides licensing and recordkeeping requirements and enforcement procedures that will enable the police department to identify and recover public and private property composed of certain metals that may have been illegally appropriated. (2006 Code, sec. 46-81; Ordinance 09-11-818, sec. 2, adopted 11/9/09)

Sec. 6.06.002 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:

Chief. The chief of police for the city or a designated representative.

Ferrous metal. A metal that contains significant quantities of iron or steel.

* **State law reference**—Sale of aluminum, bronze, copper or brass material to secondhand metal dealers, V.T.C.A., Occupations Code, sec. 1956.001 et seq.

Hold notice. Written notification by the chief to a secondary metals recycler stating that the secondary metals recycler may not sell, redeem or dispose of certain regulated metal property that the chief has reasonable cause to believe has been stolen.

Licensee. A person in whose name a license has been issued under this article or a person listed as an applicant on the application for a license.

Nonferrous metal. A metal that does not contain significant quantities of iron or steel, including but not limited to copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

Passport. A passport issued by the United States government or issued by another country and recognized by the United States government.

Person. An individual, partnership, corporation, joint venture, trust, association and any other legal entity.

Personal identification certificate. A personal identification card issued by the state department of public safety under V.T.C.A. Transportation Code, ch. 521, subch. E, as amended, or a similar card or certificate issued by another state.

Purchase transaction. A transaction in which a secondary metals recycler gives consideration in exchange for regulated metal property.

Regulated metal property. Any item composed in whole or in part of any ferrous or nonferrous metal other than an item composed in whole of tin.

Secondary metals recycler. Any person who:

- (1) Engages in the business of purchasing, collecting or soliciting regulated metal property; or
- (2) Operates or maintains a facility where regulated metal property is purchased or kept for shipment, sale, transfer or salvage.

Seller. Any person who in a purchase transaction receives consideration from a secondary metals recycler in exchange for regulated metal property.

(2006 Code, sec. 46-82; Ordinance 09-11-818, sec. 2, adopted 11/9/09)

Sec. 6.06.003 Offenses; defenses; penalty

(a) A person who knowingly violates any provision of this article or who knowingly fails to perform a duty required of him under this article commits an offense. A person is guilty of a separate offense for each item of regulated metal property involved in a violation of this article. An offense under this article is punishable by a fine not to exceed \$500.00.

(b) It is a defense to prosecution under this article that the regulated metal property involved:

- (1) Was purchased from a charitable, philanthropic, religious, fraternal, civic, patriotic, social or school-sponsored organization or association, or from any organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, as amended;
- (2) Was purchased from any public officer acting in an official capacity as a trustee in bankruptcy, executor, administrator or receiver, from any public official acting under judicial process or authority, or from a sale on the execution or by virtue of any process issued by a court;
- (3) Consists of aluminum food or beverage containers, used food or beverage containers, or similar food or beverage containers for the purpose of recycling other than beer or beverage kegs; or

- (4) Was purchased from a manufacturing, industrial or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business.

(2006 Code, sec. 46-89; Ordinance 09-11-818, sec. 2, adopted 11/9/09)

Sec. 6.06.004 Records required

(a) A secondary metals recycler shall maintain an accurate and legible record of each purchase transaction. Each transaction must be recorded separately.

(b) The record of each purchase transaction must be in English and contain the following information:

- (1) The name and address of the secondary metals recycler;
- (2) The name or initials of the individual recording the information required by this section for the secondary metals recycler;
- (3) The seller's name, address, sex and birthdate as well as the identifying number from the seller's driver's license, military identification card, passport or personal identification certificate;
- (4) The license number of any motor vehicle in which the regulated metal property is delivered in a purchase transaction;
- (5) The place, date and time of the purchase transaction;
- (6) The weight, quantity or volume and a description made in accordance with the custom of the trade of the regulated metal property purchased;
- (7) A general description of the predominant types of regulated metal property purchased in the purchase transaction;
- (8) The amount of consideration given in a purchase transaction for the regulated metal property;
- (9) A signed statement from the seller in a purchase transaction affirming a legal right of ownership and the right to sign over title to the regulated metal property offered for sale;
- (10) A digital photograph, videotape or similar likeness of the seller that clearly depicts the seller's facial features; and
- (11) A clear thumbprint of the seller.

(c) A person selling or attempting to sell regulated metal property to a secondary metals recycler shall:

- (1) Display to the secondary metals recycler the person's driver's license, military identification card, passport or personal identification certificate; and
- (2) Sign a written statement provided by the secondary metals recycler affirming that the person is the legal owner or is lawfully entitled to sell the regulated material offered for sale.

(d) The secondary metals recycler or the recycler's agent shall visually verify the accuracy of the identification presented by the seller at the time of each purchase of regulated metal property.

(e) A secondary metals recycler shall maintain on file the information required by this section for not less than one year from the date of the purchase transaction. A secondary metals recycler shall make these records available for inspection by any police officer, upon request, at the secondary metals recycler's place of business during the usual and customary business hours of the secondary metals recycler.

(f) The recordkeeping requirements of this section, other than subsections (b)(7) and (b)(10), do not apply to purchase transactions involving regulated metal property composed solely of the following nonferrous metal materials for which definitions and recordkeeping requirements are provided by V.T.C.A. Occupations Code, ch. 1956, subch. A, as amended:

- (1) Copper or brass material in excess of 50 pounds.
- (2) Bronze material.
- (3) Aluminum material in excess of 40 pounds.

(g) It is a defense to prosecution under subsection (b)(10) of this section that:

- (1) A photograph of the seller, taken within the preceding six months, was currently on file with the secondary metals recycler; and
- (2) At the time of the purchase transaction, the secondary metals recycler or an employee of the secondary metals recycler visually verified that the seller was actually the person depicted in the file photograph.

(2006 Code, sec. 46-83; Ordinance 09-11-818, sec. 2, adopted 11/9/09)

Sec. 6.06.005 Notice to sellers

(a) A secondary metals recycler shall at all times maintain in a prominent place in the secondary metals recycler's place of business, in open view to a seller of regulated metal property, a notice in two-inch lettering that contains the following or similar language approved by the chief:

A PERSON ATTEMPTING TO SELL ANY REGULATED METAL PROPERTY MUST PRESENT SUFFICIENT IDENTIFICATION REQUIRED BY CITY OF MURPHY ORDINANCE.

(b) The notice required by this section may be contained on a sign that contains another notice required by law to be displayed by the secondary metals recycler.

(2006 Code, sec. 46-84; Ordinance 09-11-818, sec. 2, adopted 11/9/09)

Sec. 6.06.006 Facsimile, telecopier or similar equipment required

A secondary metals recycler shall maintain at its place of business or otherwise have immediate access to a facsimile, telecopier or other equipment of similar function on which notifications of stolen property or other notifications relating to regulated metal property may be expeditiously received from the police department. The equipment must be operable at all times during the usual and customary business hours of the secondary metals recycler. The secondary metals recycler shall maintain the facsimile number or other access number of the equipment on file with the chief and shall notify the chief within 24 hours after any change in the number. (2006 Code, sec. 46-85; Ordinance 09-11-818, sec. 2, adopted 11/9/09)

Sec. 6.06.007 Restrictions on the purchase of regulated metal property

(a) A secondary metals recycler shall conduct all purchase transactions only between the hours of 7:00 a.m. and 7:00 p.m.

(b) A secondary metals recycler shall not purchase any item of regulated metal property from an intoxicated person.

(c) A secondary metals recycler shall not purchase any item of regulated metal property from an individual who does not arrive at the secondary metals recycler in a motor vehicle.

(d) A secondary metals recycler shall not purchase any item of regulated metal property using cash payments.

(e) A secondary metals recycler shall not purchase any of the following items of regulated metal property without obtaining proof that the seller owns the property (such as by a receipt or bill of sale) or proof that the seller is an employee, agent or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer or other person, business or entity owning the property and the seller is authorized to sell the item of regulated metal property on behalf of the person, business or entity owning the property:

- (1) A manhole cover.
- (2) An electric light pole and its fixtures and hardware.
- (3) A guard rail.
- (4) A street sign, traffic sign or traffic signal and its fixtures and hardware.
- (5) Communication, transmission and service wire.
- (6) A funeral marker or funeral vase.
- (7) An historical marker.
- (8) Railroad equipment, including but not limited to a tie plate, switch plate, E-clip or rail tie junction.
- (9) Any metal item that is marked with any form of the name, initials or logo of a governmental entity, utility company, cemetery or railroad.
- (10) A copper or aluminum condensing or evaporator coil from a heating or air conditioning unit.
- (11) An aluminum or stainless steel container or bottle designed to hold propane for fueling fork lifts.

(f) A secondary metals recycler shall maintain on file the information required by subsection (e) of this section for not less than one year from the date of the purchase of the item of regulated metal property. A secondary metals recycler shall make these records available for inspection by any police officer, upon request, at the secondary metals recycler's place of business during the usual and customary business hours of the secondary metals recycler.

(g) The requirements of subsections (e) and (f) of this section do not apply to purchase transactions involving regulated metal property composed solely of the following nonferrous metal materials for which definitions, recordkeeping requirements and other regulations are provided by V.T.C.A. Occupations Code, ch. 1956, subch. A, as amended:

- (1) Copper or brass material in excess of 50 pounds.
- (2) Bronze material.
- (3) Aluminum material in excess of 40 pounds.

(2006 Code, sec. 46-86; Ordinance 09-11-818, sec. 2, adopted 11/9/09)

Sec. 6.06.008 Hold on regulated metal property; segregation, labeling and inspection

(a) Except as provided in subsection (c) of this section, a secondary metals recycler shall retain possession of purchased regulated metal property at the secondary metals recycler's local place of business and withhold the property from alteration, processing, resale or salvage use for 72 hours after purchase unless the property is released sooner by written order of the chief or by order of a court of competent jurisdiction.

(b) Except as provided in subsection (c) of this section, a secondary metals recycler shall segregate all regulated metal property purchased from a seller from regulated metal property purchased from other sellers and attach to the property or to the container in which the property is held a label indicating the name of the seller, the date on which the property was purchased and the number of the receipt on which the purchase information is recorded. If in any single purchase transaction there are multiple items of regulated metal property of the same general type, only one representative item from each type of regulated property must be segregated and labeled in accordance with this subsection.

(c) The hold, segregation and labeling requirements of subsections (a) and (b) of this section do not apply to any item of regulated metal property composed solely of ferrous metal material unless the secondary metals recycler has received notice that the chief has, in accordance with this subsection, designated the item or type of item as being subject to those requirements. The chief shall periodically review theft statistics on ferrous regulated metal property and establish a list of items or types of items that the chief determines are subject to the requirements of subsections (a) and (b). A current list must be maintained on file in the chief's office or in another designated office of the police department so that it may be inspected by the public during the city's normal business hours. Notice of the list must be given to secondary metals recyclers in accordance with schedules and procedures established by the chief. A secondary metals recycler is presumed to have received notice of the list if the police department transmits the list to the facsimile number or access number provided by the secondary metals recycler under section 6.06.006.

(d) While in possession of purchased regulated metal property, a secondary metals recycler shall make the property available for inspection by any police officer at the secondary metals recycler's place of business during the usual and customary business hours of the secondary metals recycler.

(2006 Code, sec. 46-87; Ordinance 09-11-818, sec. 2, adopted 11/9/09)

Sec. 6.06.009 Hold on stolen regulated metal property; hold notice

(a) Whenever a police officer has reasonable cause to believe that certain items of regulated metal property in the possession of a secondary metals recycler are stolen, the chief may issue a hold notice. The hold notice must:

- (1) Identify those items of regulated metal property alleged to be stolen and subject to hold; and
- (2) Inform the secondary metals recycler of the restrictions imposed on the regulated metal property under subsection (b) of this section.

(b) A secondary metals recycler may not, for 60 days from the date of receiving a hold notice under this section, process or remove from the secondary metals recycler's place of business any regulated metal property identified in the hold notice unless the property is released sooner by the chief or by order of a court of competent jurisdiction. At the expiration of the hold period, the hold is automatically released and the secondary metals recycler may dispose of the regulated metal property unless otherwise directed by a court of competent jurisdiction.

(c) This section does not apply to items of regulated metal property composed solely of the following nonferrous metal materials for which definitions and hold notice requirements are provided by V.T.C.A. Occupations Code, ch. 1956, subch. A, as amended:

- (1) Copper or brass material in excess of 50 pounds.

- (2) Bronze material.
- (3) Aluminum material in excess of 40 pounds.

(2006 Code, sec. 46-88; Ordinance 09-11-818, sec. 2, adopted 11/9/09)

ARTICLE 6.07 SEXUALLY ORIENTED BUSINESSES*

Division 1. Generally

Sec. 6.07.001 Purpose; intent

(a) 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 concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market.

(b) It is the intent of the city council that the locational regulations of this article are promulgated pursuant to V.T.C.A., Local Government Code ch. 243, as amended.

(c) A license granted under this article or under any other city ordinance does not authorize or legalize any conduct, activity or business that is illegal under state or federal law.

(2006 Code, sec. 22-21; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.002 Findings

Based on evidence concerning the adverse secondary effects of sexually oriented businesses on the community presented in hearings and in reports made available to the city council, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S.Ct. 1382 (2000); *City of Los Angeles v. Alameda Books, Inc.*, 122 S.Ct. 1728 (2002); *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002); *LLEH, Inc. v. Wichita County, Texas*, 289 F.3d 358 (5th Cir. 2002); *Mitchell v. Commission on Adult Entertainment*, 10 F.3d 123 (3rd Cir. 1993); *Schultz v. City of Cumberland*, 228 F.3d 831 (7th Cir. 2000); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *2300, Inc. v. City of Arlington*, 888 S.W.2d 123 (Tex. App.—Fort Worth, 1994); *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998), cert. denied, 529 U.S. 1053 (2000); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *DLS, Inc. v. Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Jake's, Ltd., Inc. v. Coates*, 384 F.3d 884 (8th Cir. 2002); and on studies, reports and/or testimony in other communities including, but not limited to: Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Dallas, Texas; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; St. Croix County, Wisconsin; Kitsap County, Washington; Los Angeles, California Police Department (dated August 12, 2003); Arlington, Texas, License and Amortization Appeal Board hearings, 2001 and 2002; Arlington Community Health Profile (dated July 2003); a summary of land use studies compiled by the National Law Center for Children and Families; and also on findings from the Report of the Attorney General's Working Group on the

* **State law references**—Authority 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.

Regulation of Sexually Oriented Businesses (June 6, 1989), State of Minnesota), and the study entitled Survey of Texas Appraisers - Secondary Effects of Sexually Oriented Businesses on Market Values, by Cooper and Kelley, and Crime-Related Secondary Effects - Secondary Effects of "Off-Site" Sexually-Oriented Businesses, by McCleary, June 2008, the city council finds:

- (1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, absent municipal regulation aimed at reducing adverse secondary effects, there is no mechanism to make the owners of these establishments responsible for the activities that occur on the premises.
- (2) Certain employees of sexually oriented businesses, defined in this article as adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center, engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.
- (3) Sexual acts, including masturbation, prostitution, sexual contact, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles or rooms for viewing films, videos, or live sex shows.
- (4) Offering and providing private or semi-private areas in sexually oriented businesses encourages such sexual activities, which creates unhealthy conditions.
- (5) Persons frequent certain sexually oriented businesses, adult arcades, adult motion picture theaters and adult theaters for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- (6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, non A, non B, amebiasis, salmonella infections and shigella infections.
- (7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985, and 253,448 cumulative through December 31, 1992. In 2007, the estimated number of persons diagnosed with AIDS in the United States and dependent areas was 37,041. Of these, 35,962 were diagnosed in the 50 states and the District of Columbia and 812 were diagnosed in the dependent areas. In the 50 states and the District of Columbia, adult and adolescent AIDS cases totaled 35,934 with 26,355 cases in males and 9,579 cases in females. The cumulative estimated number of diagnoses of AIDS through 2007 in the United States and dependent areas was 1,051,875. Of these, 1,018,428 were diagnosed in the 50 states and the District of Columbia and 32,051 were diagnosed in the dependent areas. In the 50 states and the District of Columbia, adult and adolescent AIDS cases totaled 1,009,220 with 810,676 cases in males and 198,544 cases in females. (Source: U.S. Centers for Disease Control, U.S. Dept. of Health and Human Services. February 26, 2009.)
- (8) Since the early 1980s and to the present, there has been an increasing cumulative number of persons testing positive for the HIV antibody test in Collin County, Texas and across the State of Texas. As of December 31, 2001, there had been 57,199 reported cases of AIDS in the State of Texas. In 2008, 63,019 persons were reported to be living with HIV/AIDS in Texas (Tex. Dept. of State Health Services).
- (9) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982, and 45,200 through November 1990. According to department of state health services records, there were 1,175 cases of early syphilis reported in the State of Texas during 2000 and an additional 972 cases reported in 2001. Between 2007 and 2008, the number of cases of early latent syphilis reported to CDC increased 15.2 percent (from 10,768 to

12,401), while the number of cases of late and late latent syphilis increased 9.3 percent (from 18,256 to 19,945). The total number of cases of syphilis (all stages: P&S, early latent, late, late latent, and congenital syphilis) reported to CDC increased 13.1 percent (from 40,921 to 46,277) between 2007 and 2008. In 2008, P&S syphilis cases reported to CDC increased to 13,500 from 11,466 in 2007, an increase of 17.7 percent. The rate of P&S syphilis in the United States in 2008 (4.5 cases per 100,000 population) was 18.4 percent higher than the rate in 2007 (3.8 cases per 100,000 population) (Source: U.S. Centers for Disease Control, Sexually Transmitted Disease Surveillance, 2008.)

- (10) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990. Again, according to department of state health services records, there were 32,895 cases of gonorrhea reported in the State of Texas during 2000 and an additional 30,116 cases reported in 2001. During the same time period there were also 138,692 cases of chlamydia reported in the State of Texas (Arlington Community Health Profile, dated July 2003). In 2008, 336,742 cases of gonorrhea were reported in the United States, a rate of 111.6 cases per 100,000 population, reflecting a small decrease of 5.4 percent since 2007. Gonorrhea rates have remained relatively stable over the past 12 years. Texas ranked 15th in the nation in 2008 with 32,199 cases at a rate of 134.7 cases per 100,000 population. In 2008, 1,210,523 chlamydial infections were reported to CDC from 50 states and the District of Columbia. This case count corresponds to a rate of 401.3 cases per 100,000 population, an increase of 9.2% compared with the rate of 367.5 in 2007. Over the past 20 years, from 1989 through 2008, the rate of reported chlamydial infection increased from 102.5 to 401.3 cases per 100,000 population (Source: U.S. Centers for Disease Control, Sexually Transmitted Disease Surveillance, 2008.)
- (11) In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (12) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (13) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (14) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "sexually oriented" films.
- (15) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect substantial governmental concerns.
- (16) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
- (17) Removal of doors on booths and requiring sufficient lighting on premises with booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult motion picture theaters.

- (18) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.
- (19) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented businesses, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.
- (20) In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct that this article is designed to prevent, or who are likely to be witnesses to such conduct.
- (21) The barring of such individuals from the management of sexually oriented businesses for a period of years serves as a deterrent to, and prevents conduct which leads to, the transmission of sexually transmitted diseases.
- (22) It is reasonably believed that to better protect the public health, safety, and welfare, it is necessary to adopt additional amendments to this article.
- (23) Partially nude performances in sexually oriented businesses are also included within the purview of the regulations, since they have the same harmful secondary effects on the surrounding community as sexually oriented businesses currently regulated under the ordinance. (See *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002).)
- (24) There is no constitutional right for sexually oriented business employees in a state of nudity to touch customers. (*Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995).)
- (25) One court has characterized the acts of sexually oriented business employees in a state of nudity and being paid to touch or be touched by customers as prostitution. (*People v. Hill*, 2002 Ill. App. LEXIS 792 (Ill. App. 2 Dist. Sept. 4, 2002); see also V.T.C.A., Penal Code secs. 43.01 (“sexual conduct” and “sexual contact”) and 43.02 (“prostitution”).)
- (26) Attempts by the City of Arlington to require sexually oriented businesses to advise customers and employees in a state of nudity to refrain from intentionally touching and fondling each other through signage posted at the business entrance have not been effective.
- (27) Sexually oriented businesses have not complied with the “no touch” provisions, but have flagrantly disregarded them and/or have encouraged employees and customers to violate the “no touch” provision.
- (28) Provocative touching between customers and employees in a sexually oriented business where at least one is in a state of nudity frequently leads to the commission of sex crimes, illegal drug use, and increased health risks due to sexually transmitted diseases.
- (29) Compelling signage at the entrances of sexually oriented businesses has not been effective in halting “no touch” violations.
- (30) The City of Arlington has had to expend considerable law enforcement resources to enforce the “no touch” provisions.
- (31) The city council reasonably believes that requiring employees in a state of nudity to be physically separated from customers by the use of elevated stages and buffer zones is necessary to better ensure ordinance compliance while still not inhibiting constitutionally protected expressive conduct or speech. (*LLEH, Inc. v. Wichita County, Texas*, 289 F.3d 358 (5th Cir. 2002).)

- (32) The city council reasonably believes that sexual activity occurring in private viewing booths at sexually oriented businesses leads to unhealthy and unsanitary conditions and to the transmission of sexually transmitted and other communicable diseases. (*Matney v. County of Kenosha*, 86 F.3d 692, 695 (7th Cir. 1996).)
- (33) The city council reasonably believes that certain negative secondary effects, including prostitution, drug trafficking and assaultive offenses are associated with nude or semi-nude dancing in environments where alcohol is served or allowed. (*J.L. Spoons, Inc. v. Dragani*, 538 F.3d 379, 382 (6th Cir. 2008).)
- (34) The city council reasonably believes that the licensing and permitting requirements imposed on sexually oriented businesses that offer on-site entertainment comport with the prompt judicial review and preservation of the status quo requirements enunciated by the United States Supreme Court, and thus do not constitute an unconstitutional prior restraint. (*Richland Bookmart, Inc. v. Knox County, Tenn.*, 555 F.3d 512 (6th Cir. 2009), rehearing, en banc denied, 2009 U.S. App. LEXIS 12994 (6th Cir. April 23, 2009).)
- (35) The city council reasonably believes that inadequately illuminated parking lots and parking lots that are not visible from the public right-of-way by virtue of being fenced or otherwise shielded from view present increased opportunities for criminal and sexual activity.
- (36) The city council reasonably believes that video monitoring the parking lots of sexually oriented businesses will deter individuals from engaging in criminal and sexual activity in the area being monitored and retaining recordings will assist law enforcement in criminal investigations should any crimes be committed in the area.
- (37) It is reasonably believed by the city council that the general welfare, health, and safety of the citizens of the city will be promoted by the enactment of this article.
- (38) It is reasonably believed by the city council that adequate sites are reasonably available for sexually oriented businesses that meet licensing and otherwise applicable requirements to locate and operate in the city.
- (39) The fact that an applicant for a sexually oriented business license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this article. There is correlation between sexually oriented businesses, specifically their hours of operation and the type of people which such businesses attract, and higher crime rates. (*Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002).)
- (40) The findings noted in subsections (1) through (39) raise substantial governmental concerns.

(2006 Code, sec. 22-22; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.003 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:

Adult arcade. 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 pictures, projectors, or other image-producing devices are maintained to show images to one or more persons per machine at any one time, and where the images so displayed are distinguished or characterized by regularly depicting or describing specified sexual activities or specified anatomical areas.

Adult audio or video center. Any place at which any of the following activities regularly 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 for consideration;
- (2) Video or audio broadcasting, whether live, delayed, by film, by tape recording or otherwise, of specified sexually activities or specified anatomical areas for consideration; or
- (3) Filming, taping or otherwise creating video or audio recordings of specified sexually activities or specified anatomical areas, including but not limited to, films, movies, video tapes, DVDs, audio tapes or compact disks, of specified sexually activities or specified anatomical areas that are broadcast, sold, manufactured or distributed for consideration.

Adult bookstore, adult novelty store or adult video store. A commercial establishment for which the primary business 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, including:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, DVDs, 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 that are designed for use in connection with specified sexual activities, but not including items for birth control or for the prevention of sexually transmitted diseases.

Adult cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity or semi-nudity;
- (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. 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 subrent the room for a period of time that is less than ten hours.

Adult motion picture theater. 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. 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 which are characterized by the exposure of specified sexual activities or specified anatomical areas.

Applicant.

- (1) A person or entity in whose name a license to operate a sexually oriented business will be issued;
- (2) Each individual who signs an application for a sexually oriented business license as required by section 6.07.031;
- (3) Each individual who is an owner or operator of a sexually oriented business for which a license application is made under section 6.07.031, regardless of whether the individual's name or signature appears on the application;
- (4) Each individual who has a 20 percent or greater ownership interest in a sexually oriented business for which a license application is made under section 6.07.031, regardless of whether the individual's name or signature appears on the application; and
- (5) Each individual who exercises substantial de facto control over a sexually oriented business for which a license application is made under section 6.07.031, regardless of whether the individual's name or signature appears on the application.

Article, chapter or ordinance. Reference to "this article," "this chapter" or "this ordinance" shall mean and refer to this article of the Code of Ordinances of the city, as amended.

Chief of police. The chief of police of the City of Murphy or the chief of police's designated agent.

City manager. The city manager for the City of Murphy or the city manager's designated agent.

Conviction. A conviction in a federal court or a court of any state or foreign nation or political subdivision of a state or foreign nation that has not been reversed, vacated, or pardoned. "Conviction" includes disposition of charges against a person by probation or deferred adjudication.

Customer. Any person who:

- (1) Is allowed to enter a sexually oriented business or any portion of a sexually oriented business in return for the payment of an admission fee, membership fee or any other form of consideration or gratuity;
- (2) Enters a sexually oriented business or any portion of a sexually oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
- (3) Is a member of and on the premises of a sexually oriented business operating as a private or membership club or a sexually oriented business that reserves any portion of the premises of the sexually oriented business as a private or membership club.

Employee. 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 the person is paid a salary, wage or other compensation by an owner or operator of the sexually oriented 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.

Enterprise. 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 modeling studio or any establishment whose primary business 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 its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. The term “enterprise” shall include any premises for which a permit or license is required under either or both of divisions 2 and 3 of this article. However, the term “sexually oriented business” shall not be construed to include:

- (1) Any business operated by or employing licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists, or licensed barbers performing functions authorized under the license held;
- (2) Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts; or
- (3) Any retail establishment whose major business is the offering of wearing apparel for sale to customers.

Entertainer. Any employee of a sexually oriented business who performs or engages in entertainment.

Entertainer’s permit. A permit issued by the chief of police to an entertainer pursuant to this article.

Entertainment. Any act or performance, such as a play, skit, reading, revue, fashion show, modeling performance, pantomime, role playing, encounter session, scene, song, dance, musical rendition or striptease, that involves the display or exposure of specified sexual activities or specified anatomical areas. The term “entertainment” shall include any employee or entertainer exposing any specified anatomical areas or engaging in any specified sexual activities whatever in the presence of customers.

Escort. 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 for another person.

Escort agency. A person or business association which furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes, for a fee, tip or other consideration.

Establishment. 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.

Hearing officer. The city manager, or his or her designee. The hearing officer shall exercise those powers authorized under the Texas Local Government Code, the charter of the city, and the Code of Ordinances of the city, as appropriate in the furtherance of his or her duties.

License. A license issued to a licensee pursuant to this article.

Licensee.

- (1) A person in whose name a license to operate a sexually oriented business has been issued;

- (2) Each individual listed as an applicant on the application for a license;
- (3) Each individual who is an owner or operator of a sexually oriented business for which a license has been issued under this article, regardless of whether the individual's name or signature appears on the license application;
- (4) Each individual who has a 20 percent or greater ownership interest in a sexually oriented business for which a license has been issued under this article, regardless of whether the individual's name or signature appears on the license application; and
- (5) Each individual who exercises substantial de facto control over a sexually oriented business for which a license has been issued under this article, regardless of whether the individual's name or signature appears on the license application.

Manager. Any person, including an on-site manager, who supervises, directs or manages any employee or other person who conducts business on the premises of a sexually oriented business and/or performs certain services including, but not limited to, the following:

- (1) Operating a cash register, cash drawer or other depository on the premises of the sexually oriented business where cash funds or records of credit card or other credit transactions are generated in any manner by the operation of the sexually oriented business or the activities at the premises of the sexually oriented business;
- (2) Displaying or taking orders from any customer for any merchandise, goods, entertainment or other services offered on the premises of the sexually oriented business;
- (3) Delivering or providing to any customer any merchandise, goods, entertainment or other services offered on the premises of the sexually oriented business;
- (4) Acting as an attendant to regulate entry, flow or traffic of customers or other persons into the premises of the sexually oriented business; or
- (5) Supervising or managing other person(s) in the performance of any of the foregoing activities on the premises of the sexually oriented business.

Manager's permit. A permit issued by the chief of police to a manager pursuant to this article.

Nude model studio. Any place where a person [who] appears in a state of nudity or 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; however, nude modeling at or on behalf of any properly accredited institution of higher learning shall not fall within this definition.

Nudity or a state of nudity. A state of dress which fails to fully and opaquely cover the anus, genitals, pubic region, or perineum anal region, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the anus, genitals, pubic region, or perineum anal region, regardless of whether the nipple and areola of the human female breast are exposed.

On-site manager. Any person charged by an owner or operator of a sexually oriented business with the responsibility for direct supervision of the operation of the sexually oriented business and/or responsible for monitoring and observing areas of the sexually oriented business to which customers are admitted when the sexually oriented business is open for business and/or when customers are admitted to the premises of the sexually oriented business.

Opaquely. Impervious to the rays of light; not transparent; impenetrable to sight.

Operates or causes to be operated. To cause, to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is a licensee, owner or operator of the sexually oriented business.

Operator. The individual or natural person who is principally in charge of the operations of a sexually oriented business.

Owner or owners. The proprietor, if a sole proprietorship, or all general partners if a partnership, or the corporation if a corporation, of a sexually oriented business.

Permit. A current, valid permit issued by the chief of police or building official pursuant to this article.

Permit holder. A person who holds a permit pursuant to this article.

Person. An individual, proprietorship, partnership, corporation, limited liability company, association or other legal entity.

Semi-nude or semi-nudity or state of semi-nudity. The exposure of the post-puberty female nipple or areola, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the post-puberty female nipple or areola, so long as the following anatomical areas of an individual are fully and opaquely covered: the anus, genitals, pubic region and the perineum anal region of the human body. The term “semi-nude” shall not apply to an individual exposing a post-puberty female nipple or areola in the process of breastfeeding a child under that person’s care.

Separate area. Any portion of the interior of a sexually oriented business separated from any other portion of a sexually oriented business by a wall, partition or other divider.

Sexual encounter center. A business or commercial sexually oriented business that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually oriented business. An adult arcade, adult audio or video center, adult bookstore, adult novelty store or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude modeling studio or sexual encounter center, or other sexually oriented business the primary 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. For purposes of this article, “primary business” means 25 percent or more of the items in inventory and/or floor space used for 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. Inventory 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. The term shall also mean any commercial sexually oriented business that self-identifies as an adult arcade, adult audio or video center, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude modeling studio or sexual encounter center, regardless of whether the percentage of items in inventory and/or floor space constitute 25 percent or more of the total items in inventory and/or floor space. The term “sexually oriented business” shall not be construed to include:

- (1) Any business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, licensed massage therapist, or licensed barber engaged in performing functions authorized under the lawful license held;
- (2) Any business operated by or employing a licensed physician or chiropractor engaged in practicing the healing arts;

- (3) Any business licensed as a tattoo studio or a body piercing studio and was engaged in practices authorized under the license; or
- (4) An activity conducted or sponsored:
 - (A) By a proprietary school licensed by the state or a college, junior college or university supported entirely or partly by taxation; or
 - (B) By a private college or university which maintains or operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation;

and any activity conducted or sponsored by an entity identified in subsection (A) or (B) must be situated in a structure: (i) which has no sign or other advertising visible from the exterior of the structure indicating a nude or semi-nude person is available for viewing; and (ii) where in order to participate in a class, a student must enroll at least three days in advance of the class; and (iii) where no more than one nude or semi-nude model is on the premises at any one time.

Specified anatomical area.

- (1) Any of the following, or any combination of the following, when less than completely and opaquely covered:
 - (A) Any human genitals, pubic region or pubic hair;
 - (B) Any buttock; or
 - (C) Any portion of the female breast or breasts that is situated below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly erect state, even if completely and opaquely covered.

Specified sexual activity. Any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
- (2) Sex acts, normal or perverted, actual or situated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

Substantial enlargement of a sexually oriented business. The increase in floor area occupied by the business of more than 25 percent, as the floor area exists on the date of passage of this article.

Temporary entertainer. An individual who holds a temporary entertainer's permit.

Temporary entertainer's permit. An entertainer's permit that is valid for a reduced period of time, pursuant to this article.

Temporary manager. An individual who holds a temporary manager's permit.

Temporary manager's permit. A manager's permit that is valid for a reduced period of time, pursuant to this article.

Temporary permit. A permit that is valid for a reduced period of time, pursuant to this article.

Transfer of ownership or control. Pertaining to a sexually oriented business, means and includes any of the following:

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

(2006 Code, sec. 22-23; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.004 Classification

- (a) Adult arcades;
- (b) Adult audio or video centers;
- (c) Adult bookstores, adult novelty stores or adult video stores;
- (d) Adult cabarets;
- (e) Adult motels;
- (f) Adult motion picture theaters;
- (g) Adult theaters;
- (h) Escort agencies;
- (i) Nude modeling studios; and
- (j) Sexual encounter centers.

(2006 Code, sec. 22-24; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.005 Location; exemption from location restrictions

(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 causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of any of the following:

- (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 plan, or a historic district as designated by the city's comprehensive zoning ordinance or comprehensive plan;
 - (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 (except premises holding a food and beverage certificate whose primary business being operated on the premises is food service).
- (c) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.
- (d) For the purposes of subsection (b), measurement must be made in a straight line, without regard to 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 portion of a property line or boundary for the uses listed in subsection (b). The 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.
- (e) For purposes of subsection (c), 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. 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.
- (f) Any sexually oriented business lawfully operating prior to the effective date of this article or 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 1,000 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.
- (g) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant of a renewal of the sexually oriented business license, of a use listed in subsection (b) within 1,000 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.

(h) Exemption from location restrictions.

- (1) If the chief of police denies the issuance of a license to an applicant because the location of the sexually oriented business is in violation of any section of this article, then the applicant may, not later than ten calendar days after receiving notice of the denial, file with the city secretary a written request for an exemption of the locational restrictions of this article.
- (2) If the written request is filed with the city secretary within the ten calendar day limit, the city council shall consider the request. The city secretary shall set a date for the hearing within sixty 60 days from the date the written request is received, unless both parties agree to a certain date beyond the 60 days.
- (3) A hearing by the council may proceed if a quorum of the council members is present. The council shall hear and consider evidence offered by any interested person. The normal rules of evidence do not apply.
- (4) The council may, in its discretion, grant an exemption from the locational restrictions of this article if it makes the following findings:
 - (A) That the location of the sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;
 - (B) That the location of the sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;
 - (C) That the location of the sexually oriented business in the area will neither be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and
 - (D) That all other applicable provisions of this article will be observed.
- (5) In making the findings specified in subsection (4), the council may take into account among other things:
 - (A) Crime statistics and forecasts of the location and its 1,000-foot radius maintained by the appropriate law enforcement agency;
 - (B) Assessed property values for the location and properties within the surrounding 1,000-foot radius, taking into account any decline or increase in property values or rates of decrease or increase in property values in relation to otherwise comparable properties;
 - (C) Sales, leases, and vacancy rates of all property types within the surrounding 1,000-foot radius in relation to otherwise comparable properties; and
 - (D) Any evidence regarding the award or denial of any public or private grants for neighborhood conservation, urban renewal or restoration for any property located within the surrounding 1,000-foot radius.
- (6) The city council shall grant or deny the exemption by a majority vote of a quorum of the city council, no later than ten days after the hearing. The failure to grant or deny the exemption no later than ten days after the hearing and/or the failure to reach a majority vote shall result in denial of the exemption. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the council is final.

- (7) If the council grants the exemption, the exemption is valid for one year from the date of the council's action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of this article until the applicant applies for and receives another exemption pursuant to this subsection. If the applicant applies for another exemption within ten days following the expiration of the exemption, the city secretary shall set a date for a hearing as set out in this subsection. If a timely request is so filed, the existing license is deemed not to have expired until the decision of the council on such request.
- (8) If the council denies the exemption, the applicant may not reapply for an exemption until at least 12 months have elapsed since the date of the council's action.
- (9) The grant of an exemption does not exempt the applicant from any other provisions of this article other than the locational restrictions.

(2006 Code, sec. 22-25; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.006 Amendment of article

Locational requirements of this article may be amended only after compliance with the procedure required to amend the zoning code or any applicable zoning ordinance. Other sections of this article may be amended by vote of the city council. (2006 Code, sec. 22-26; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.007 Suit for injunction

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of locational requirements of this article is subject to a suit for injunction as well as prosecution for criminal violations. (2006 Code, sec. 22-27; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.008 Penalty

- (a) Any person, firm, corporation, agent or employee who violates any of the provisions of this article shall be guilty of a class A misdemeanor.
- (b) Each day that a violation is permitted to exist shall constitute a separate offense.
- (c) The refusal to issue a permit based on ineligibility shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the refusal to issue a permit based on ineligibility.
- (d) The revocation or suspension of a permit shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the revocation or suspension of a permit.
- (e) Except where otherwise specified, a culpable mental state is not required for the commission of an offense under this article.

(2006 Code, sec. 22-28; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Secs. 6.07.009–6.07.030 Reserved

Division 2. Licensing

Sec. 6.07.031 License required

- (a) A person commits an offense if the person operates or causes to operate a sexually oriented business without a valid license, issued by the city for the particular classification of sexually oriented business. 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.

(b) Any person, association, firm, partnership or corporation desiring to obtain a sexually oriented business license shall make application on a form provided by the chief of police. The completed application for a sexually oriented business 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 at least 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 applicant 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 criminal activity listed under section 6.07.032 of this article, and, if so, the 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 been previously 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 sign stating the intent to locate a sexually oriented business was posted as required by this article.
 - (8) The applicant's mailing address and residence or physical address.
 - (9) For each applicant, a copy of the 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. The sketch or diagram shall also depict the total floor space devoted to 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 as it relates to the total floor space occupied by the business, if applicable. The sketch or diagram shall also depict the manager's station and any proposed stage or performance areas, if applicable. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6").
 - (12) A current straight-line drawing prepared and certified 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 1,000 feet of the property where the proposed sexually oriented business will be located and the property lines or boundaries of the uses and locations described in section 6.07.005(b) and (c) within 1,000 feet of the property where the proposed sexually oriented business will be located.
 - (13) By submitting an application for a sexually oriented business license, the applicant agrees that it shall provide access to its inventory records for the business. These records shall be made available to the city pursuant to section 6.07.034 of this article.
- (c) The applicant 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 in this article. 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.
- (d) An individual person who wishes to operate a sexually oriented business must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under section 6.07.031 [6.07.032], and each applicant shall be considered a licensee if a license is granted.
- (e) The fact that a person possesses other types of state or city permits does not exempt that person from the requirement of obtaining a license for a sexually oriented business.
- (f) All applications for a license under this article shall be accompanied by a nonrefundable application fee in the amount as established in the adopted fee schedule. An application shall not be considered to have been received as administratively complete until the fee is paid and all information required by the application form has been submitted. The application fee shall not be prorated in the event an application is tendered before or during the licensing period. The application for a sexually oriented business license shall be approved or denied

within the time frame, and in the manner, established by section 6.07.032 of this article. Such application for a sexually oriented business license shall be deemed denied if not approved or denied within such time period.

(g) Upon approval of a sexually oriented business license, an applicant for a sexually oriented business license must obtain a certificate of occupancy for a sexually oriented business from the building official. The building official shall issue or deny a certificate of occupancy to a sexually oriented business not more than 45 business days subsequent to the date of the applicant's submission of a completed and correct, including all required documentation, application for a certificate of occupancy to the city's building inspection department. Such application for a certificate of occupancy shall be deemed denied if not approved or denied within such time period.

(h) Upon approval of a sexually oriented business license, if an applicant for a sexually oriented business requires a building permit under applicable city ordinances, the building official shall cause all building, fire, health and other necessary permits to be issued within 30 business days subsequent to the date of the applicant's submission of a completed and correct application for a building permit, including all required documentation, [upon] application for said permit to the city's building inspection department. Upon receipt of administratively complete applications(s), the building official shall cause all necessary inspections to occur within three business days of the applicant's request for an inspection made to the building official. Such application(s) shall be deemed denied if not approved or denied within such time period. The applicant must specify on the face of its application that the proposed use is for a sexually oriented business and give the name and address of the applicant's contact for all communications and notices.

(i) Notwithstanding any other ordinance, an applicant for a sexually oriented business may appeal any decision of the building official by appealing to the zoning board of adjustment within 30 calendar days after receipt of a notice of decision or the expiration of the deadlines set forth in subsection (g) or (h) above. The applicant may appeal any decision of the zoning board of adjustment to the appropriate county court of record within ten calendar days of that decision. The filing of such suit will not have the effect of staying denial of such building permit or certificate of occupancy pending a judicial determination.

(2006 Code, sec. 22-41; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Sec. 6.07.032 License issuance and grounds for denial

(a) The chief of police shall approve the issuance of a license to an applicant within 30 days after receipt of an application, unless the chief of police finds one or more of the following to be true:

- (1) The location of the sexually oriented business is or would be in violation of section 6.07.005 of this article.
- (2) The applicant failed to supply all of the information requested on the application.
- (3) The applicant gave false, fraudulent or untruthful information on the application.
- (4) An applicant is under 18 years of age.
- (5) An applicant or an applicant's spouse is overdue in payment to the secretary of state or the city of taxes, fees, fines or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.
- (6) An applicant or an applicant's spouse has been convicted or placed on deferred disposition, probation or community supervision for a violation of a provision of this article, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
- (7) The license fee required by the article has not been paid.

- (8) The applicant has not demonstrated that the owner of the sexually oriented business owns or holds a lease for the property or the applicable portion thereof upon which the sexually oriented business will be situated or has a legally enforceable right to acquire the same.
- (9) An applicant or the proposed establishment in violation of or is not in compliance with section 6.07.034 or 6.07.041, 6.07.102(h), 6.07.107(a)(1), 6.07.107(a)(5), 6.07.108(a)(1) and 6.07.108(a)(5), as applicable.
- (10) An applicant or an applicant's spouse has been convicted or placed on deferred disposition, probation, or community supervision for:
 - (A) Any offense under the laws of the United States of America, another state or the Uniform Code of Military Justice for an offense described in this subsection 6.07.032(a)(10); or
 - (B) Any of the below offenses of the state or criminal attempt, conspiracy, or solicitation to commit same:
 - (i) Any of the following offenses as described in V.T.C.A., Penal Code ch. 43:
 - a. Prostitution;
 - b. Promotion of prostitution;
 - c. Aggravated promotion of prostitution;
 - d. Compelling prostitution;
 - e. Obscenity;
 - f. Sale, distribution or display of harmful material to a minor;
 - g. Sexual performance by a child;
 - h. Possession of child pornography;
 - (ii) Any of the following offenses as described in V.T.C.A., Penal Code ch. 21:
 - a. Public lewdness;
 - b. Indecent exposure;
 - c. Indecency with a child;
 - (iii) Sexual assault or aggravated sexual assault as described in V.T.C.A., Penal Code ch. 22;
 - (iv) Incest, solicitation of a child or harboring a runaway child as described in V.T.C.A., Penal Code ch. 25; or
 - (v) Those crimes defined as "drug-defined offenses" or "drug-related offenses" by the Bureau of Justice Statistics Drug and Crime Data Fact Sheet, 1994, for which punishment would be classified as a felony as set forth in V.T.C.A., Penal Code sec. 12.04;

(C) For which (regarding subsections (a)(10)(A) and (B) of this section):

- (i) 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 a misdemeanor offense;
- (ii) 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 for the conviction, whichever is the later date, if the conviction is a felony offense; or
- (iii) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(11) The applicant or the applicant's spouse is required to register as a sex offender under the provisions of chapter 62 of the Texas Code of Criminal Procedure.

(12) The applicant failed to comply with any of the requirements of V.T.C.A., Local Government Code sec. 243.0075 regarding the posting of an outdoor sign.

(b) An applicant, or applicant's spouse, who has been convicted of or placed on deferred disposition, probation or community supervision for an offense listed in subsection (a)(10) of this section may qualify for a sexually oriented business license only when the time period required by subsection (a)(10)(C) of this section has elapsed.

(c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the sexually oriented business.

(d) The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business, so that it is visible to the public at all times and may be easily read.

(2006 Code, sec. 22-42; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.033 Annual license fee

(a) The annual fee for a sexually oriented business license shall be in an amount as established in the city's annual fee ordinance.

(b) The fact that a person possesses other types of state or city permits does not exempt that person from the requirement of obtaining a license for a sexually oriented [business].

(2006 Code, sec. 22-43; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.034 Inspection of premises and maintenance of records

(a) A licensee, owner, operator or employee of a sexually oriented business shall be subject to regulation under this article and shall permit representatives of the police department, health department, fire department, building inspections department and code enforcement department to inspect all portions of the premises where customers are allowed and the records required to be maintained under this article by the sexually oriented business for the purpose of ensuring compliance with this article at any time it is occupied or open for business.

(b) A licensee, owner or operator of a sexually oriented business commits an offense if the establishment operates without maintaining a current list of all employees of the sexually oriented business, along with a complete updated employment application for each employee. A legible copy of a valid driver's license, state identification card, or passport, with a photograph, together with an original photograph accurately depicting the employee as the employee appears at the time the employee is hired, shall be required and maintained on the premises with the employee application.

(c) A licensee, owner, operator or employee of a sexually oriented business commits an offense if a licensee, owner, operator or employee refuses to permit a lawful inspection of the records and premises by a representative of the police department, health department, fire department, building inspections department and code enforcement department at any time the sexually oriented business is occupied or open for business.

(d) The licensee, owner or operator of a sexually oriented business shall maintain all records required to be maintained under the provisions of this article on the licensed premises.

(e) The licensee, owner or operator of a sexually oriented business commits an offense if the licensee, owner or operator does not maintain the required records on the premises of the establishment.

(f) A licensee, owner, operator or employee of a sexually oriented business shall permit representatives of the police department, health department, fire department, building inspections department and code enforcement department to take photographs of the licensee, owner, operator or employees of the sexually oriented business for the purpose of ensuring compliance with this article at any time it is occupied or open for business.

(g) A licensee, owner, operator or employee of a sexually oriented business commits an offense if the licensee, owner, operator or employee does not permit representatives of the police department, health department, fire department, building inspections department and code enforcement department to take photographs of the licensee, owner, operator or employee of the sexually oriented business at any time it is occupied or open for business.

(h) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

(2006 Code, sec. 22-44; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.035 Expiration and renewal of license

(a) Each license shall expire one year after the date of issuance.

(b) Renewal of a license may be applied for by submission to the chief of police of an application on the form prescribed by such official and payment of a nonrefundable renewal processing fee in such amount as established by the city's annual fee ordinance.

(c) Application for renewal shall be made at least 30 days before the expiration date of the current license, and when made less than 30 days before the expiration date, the license will still expire on its expiration date. The grounds for denial of a renewal license shall be the same as for an original license as provided in section 6.07.032 of this article. 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 resubmit a complete and correct renewal application and the applicant may be granted a license within 30 days as provided in section 6.07.032 of this article.

(2006 Code, sec. 22-45; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.036 Grounds for suspension of license

(a) Subject to subsection (b) of this section, the chief of police shall suspend a sexually oriented business license if the chief of police determines that a licensee, owner, operator or employee of a sexually oriented business (or any combination thereof) has:

- (1) On five or more occasions within any 12-month period of time been cited for a violation of sections 6.07.141, 6.07.142 and 6.07.143 or any of the provisions of division 3 or 4 of this article, and been convicted or placed on deferred disposition or probation for the violation(s);
- (2) On five or more occasions within any 12-month period of time been cited for a violation of section 6.07.034 of this article, and been convicted or placed on deferred disposition or probation for the violation(s); or
- (3) Been cited for any combination of offenses under subsection (1) or (2) above that total five within any 12-month period of time, and been convicted or placed on deferred disposition or probation for the violation(s).

(b) A period of suspension will begin the first day after the decision of the chief of police has been made. If appeal is taken under section 6.07.040, the period of suspension begins the day after all appeals are final.

(c) Each day in which a violation is permitted to continue shall constitute a separate violation for purposes of suspension.

(2006 Code, sec. 22-46; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.037 Grounds for revocation of license

(a) The chief of police may revoke a sexually oriented business license:

- (1) If a cause of suspension in section 6.07.036 occurs and the license has been ordered suspended by the chief of police for a 30-day period pursuant to section 6.07.036 within the preceding year;
- (2) If the chief of police determines that, on two or more occasions within any five-year time period, a licensee, owner, operator or employee (or any combination thereof) has/have been convicted of or placed on deferred disposition, probation or community supervision for conduct occurring on the premises of a sexually oriented business that constitutes any of the offenses of the state or criminal attempt, conspiracy, or solicitation to commit same for the following offenses (except the chief of police may, if he determines that the criminal offense of sexual performance of a child has occurred on a single occasion, revoke the sexually oriented business license):

(A) Any offenses as described in V.T.C.A., Penal Code ch. 43 including:

- (i) Prostitution;
- (ii) Promotion of prostitution;
- (iii) Aggravated promotion of prostitution;
- (iv) Compelling prostitution;
- (v) Obscenity;
- (vi) Sale, distribution or display of harmful material to a minor;
- (vii) Sexual performance by a child;

- (viii) Possession of child pornography;
- (B) Any of the following offenses as described in V.T.C.A., Penal Code ch. 21:
 - (i) Public lewdness;
 - (ii) Indecent exposure;
 - (iii) Indecency with a child;
- (C) Sexual assault or aggravated sexual assault as described in V.T.C.A., Penal Code ch. 22;
- (D) Incest, solicitation of a child or harboring a runaway child and other offenses contained in V.T.C.A., Penal Code ch. 25; or
- (E) Those crimes defined as “drug-defined offenses” or “drug-related offenses” by the Bureau of Justice Statistics Drug and Crime Data Fact Sheet, 1994, for which punishment would be classified as a felony as set forth in V.T.C.A., Penal Code sec. 12.04;
- (3) If a licensee, owner or operator gave false or misleading information in the material submitted to the chief of police during the application process;
- (4) If a licensee, owner or operator has knowingly allowed possession, use or sale of a controlled substance on the premises;
- (5) If a licensee, owner or operator has on two (2) or more occasions knowingly allowed prostitution on the premises;
- (6) If a licensee, owner or operator knowingly operated the sexually oriented business during a period of time when the licensee’s license was suspended;
- (7) If a licensee, owner or operator has, on one or more occasions, knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in or on the licensed premises. The term “sexual contact” shall have the same meaning as it is defined in V.T.C.A., Penal Code sec. 21.01;
- (8) If a licensee is delinquent in payment to the city for hotel occupancy taxes, ad valorem taxes or sales taxes related to the sexually oriented business;
- (9) If the licensee is required to register as a sex offender under the provisions of V.T.C.A., Criminal Procedure Code ch. 62;
- (10) If a license is transferred in violation of section 6.07.041(a).
- (b) The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- (c) Subsection (a)(7) of this section does not apply to adult motels as a ground for revoking the license, unless the licensee, owner, operator or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view.

(2006 Code, sec. 22-47; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.038 Denial, suspension and revocation procedures

(a) A denial, suspension, or revocation is an administrative procedure. In any hearing relating to such actions under this section, the burden of proof shall be on the city (except for affirmative defenses), and shall be by a preponderance of the evidence.

(b) If the chief of police is authorized to deny the issuance of a license, or suspend or revoke a license, the chief of police shall give written notice to the applicant or licensee of his intent to implement denial, suspension, or revocation procedures. The notice shall state:

- (1) The reason for such denial, suspension, or revocation.
- (2) The provisions of the code which have been violated.
- (3) The person or office with which any request for a contested case hearing must be filed and the address at which any such request must be filed.

(c) The notice shall provide that the denial of issuance, suspension or revocation shall take effect at the expiration of the tenth calendar day after notification. The applicant or licensee shall have ten calendar days from the date notice is received to request a hearing on the denial, suspension or revocation as provided in section 6.07.040(a) of this article.

(d) A written request for a hearing from the applicant, permit holder, or licensee received by the chief of police before the expiration of the tenth (10th) calendar day does not stay the denial, suspension or revocation of the license pending a hearing before the hearing officer.

(e) In making a determination as to the denial of a license, the chief of police shall consider whether the applicant has established the applicant's entitlement to a license under the requirements imposed by section 6.07.032 of this article and/or whether the city has established a disqualifying factor under the requirements imposed by section 6.07.032 of this article.

(f) In making a determination of the suspension of a license under section 6.07.036 of this article, the chief of police shall consider:

- (1) Whether the required number of citations under section 6.07.036(a)(1), (2), or (3) were issued to the licensee, owner, operator, or employee of the licensee within a 12-month period of time; and
- (2) Whether the licensee, owner, operator or employee of the licensee was convicted or placed on deferred disposition or probation for the citations.

(g) In making a determination of the revocation of a license under section 6.07.037(a)(1) of this article, the chief of police shall consider:

- (1) Whether the required number of citations under section 6.07.036(a)(1), (2), or (3) were issued to the licensee, owner, operator or employee of the licensee within a 12-month period of time;
- (2) Whether the licensee, owner, operator or employee of the licensee was convicted or placed on deferred disposition or probation for the citations; and
- (3) Whether the license at issue has been ordered suspended for a 30-day period of time pursuant to section 6.07.039(b)(4) of this article within the preceding 12-month period of time.

(h) In making a determination of the revocation of a license under section 6.07.037 of this article, the chief of police shall consider whether the evidence shows that the specified convictions, events or actions occurred as set forth in those sections of this article.

(2006 Code, sec. 22-48; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Sec. 6.07.039 Period of suspension or revocation

(a) The revocation of a license as provided for in section 6.07.037 of this article shall be for a period of 12 months.

(b) The suspension of a license as provided for in section 6.07.036 of this article shall be as follows:

- (1) The first suspension of a license shall be for a period of three calendar days. When the chief of police is authorized to suspend a license for three calendar days, he shall notify the licensee in the notice of decision of the licensee's opportunity to pay a reinstatement fee in the amount established in the fee schedule in lieu of the suspension. Payment of this administrative fee shall be considered, for the purposes of this subsection, the first suspension and an administrative admission of the violations. However, this shall not be used as an admission of guilt in a criminal prosecution under this article. If the licensee does not pay the reinstatement fee before the expiration of the thirtieth (30th) calendar day after notification, the licensee loses the opportunity to pay for it.
- (2) The second suspension of a license shall be for a period of seven calendar days.
- (3) The third suspension of a license shall be for a period of 15 calendar days.
- (4) The fourth suspension of a license shall be for a period of 30 calendar days. Except where grounds for revocation of a license exist under section 6.07.037(a)(1), each subsequent suspension of a license shall be for a period of 30 calendar days.

(2006 Code, sec. 22-49; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Sec. 6.07.040 Administrative hearings and appeals

(a) An applicant, permit holder or licensee shall have ten calendar days from the date notice is received to request a hearing on the denial, suspension or revocation; if a hearing on the denial, suspension or revocation is not timely requested, the denial, suspension or revocation becomes final. The request shall be in writing and delivered to applicant or licensee via personal delivery, or via U.S. Postal Service, certified mail, return receipt requested. If filed by mail, the request shall be considered timely filed if the green return receipt card shows the item was properly addressed and received by the applicant, permit holder or licensee on or before the tenth calendar day from the date the applicant, permit holder or licensee received notice of intention to deny/revoke/suspend. Upon receipt of the request for hearing, a hearing before the hearing officer shall be scheduled to take place within 30 calendar days unless both parties agree to a certain date beyond the 30 days. The hearing officer shall consider only the testimony and evidence admitted for consideration at the hearing. The hearing officer shall have five business days from the date of the hearing to notify the applicant or licensee of the decision.

- (1) Standing. Only the chief of police and the licensee, permit holder, or applicant shall have standing in an administrative revocation, suspension, or denial proceeding.
- (2) Representation by counsel. Each party is entitled to:
 - (A) The assistance of counsel, at the party's expense, before the hearing officer; or
 - (B) Expressly waive the right to assistance of counsel in writing or on the record before the hearing officer.

- (3) Status of license/permit during hearing. While a case is pending, and prior to the final decision of the hearing officer regarding denial, revocation or suspension, a license or permit is neither valid nor effective.
- (4) Additional rules. The following additional rules shall apply to any hearing pursuant to this article:
 - (A) The city attorney, or his designated representative shall represent the chief of police.
 - (B) Except upon express written agreement of all parties to the hearing, or upon showing of good cause for a period not to exceed 20 days, a hearing will not be continued.
 - (C) Ex parte communications in connection with any issue of fact or law between any party and the hearing officer are strictly prohibited, except on notice and opportunity for each party to participate.
 - (D) A party may request a court reporter to transcribe the hearing. The party requesting a transcript of the hearing shall bear the cost for production of the transcript.
- (5) Record. The hearing record shall include the following:
 - (A) A file stamped copy of notice of intention to deny/revoke/suspend the license/permit;
 - (B) The request for a hearing and any written response to the notice of intention to deny/revoke/suspend the license or permit;
 - (C) A statement of matters officially noticed;
 - (D) Each decision, opinion, or report prepared by the hearing officer at the hearing;
 - (E) All documents, data, and other evidence submitted to or considered by the hearing officer used in making his or her decision; and
 - (F) The record shall be filed with the city secretary.
- (6) Decision of hearing officer.
 - (A) If a request for a hearing has been timely filed, the hearing officer shall conduct a de novo hearing and shall make one of the following findings:
 - (i) If the hearing is one for which the permit or license is subject to suspension, the hearing officer shall determine that the alleged offense occurred, and determine the severity of the offense, and shall either order a suspension pursuant to the time periods in section 6.07.039, or deny the suspension.
 - (ii) If the hearing officer finds that any of the conditions set forth in this article exist that would make the permit or license subject to revocation, the hearing officer shall, on the basis of the severity of the offense, either revoke the permit or license, or order a suspension pursuant to section 6.07.039.
 - (iii) If the hearing officer finds that any of conditions set forth in this article exist that would be grounds for denial of the license and/or permit, the hearing officer shall deny the permit or license pursuant to section 6.07.032.
 - (B) If the hearing officer does not make the requisite findings, then the decision of the police chief shall be affirmed.

(7) Notice of denial/revocation/suspension.

- (A) A final decision or order by the hearing officer shall be issued in writing, and shall:
 - (i) Be provided to all parties via personal delivery or via United States Postal Service, certified mail, return receipt requested; and
 - (ii) Be considered timely if:
 - a. For personal delivery, a party receives the notice not later than three business days from the date on which the decision is rendered; or
 - b. For postal delivery, the decision or order is postmarked not later than three business days from the date on which the decision is rendered.
 - (B) The decision by the hearing officer is effective 30 calendar days after the applicant or licensee is notified of the decision, unless a reinstatement fee under section 6.07.039(b)(1) of this article is paid (if applicable), or an appeal is made to district court.
 - (C) Any act authorized by license or permit shall be unauthorized and in violation of this article upon and after the effective date of any suspension of the permit or license until the suspension expires.
 - (D) Any act authorized by a permit shall be unauthorized and in violation of this article upon and after the effective date of any revocation of the permit unless and until a new permit, if any, is applied for and granted pursuant to the terms of this article. If a permit has been revoked because of crimes or activities occurring on the premises of a sexually oriented business, the owner/operator of the sexually oriented business is disqualified from receiving or holding any license or permit under this article for a period of one calendar year from the effective date of the revocation.
 - (E) If a permit is suspended or revoked because of crimes or activities occurring on the premises of a sexually oriented business, each and every individual, person, or association which is an owner/operator of a sexually oriented business at the time of any suspension or revocation of the sexually oriented business for that establishment shall be considered to have had a permit suspended or revoked as if they held the permit or license in their own name for purposes of determining whether they are qualified to participate in another permit application under this article. If a permit is suspended or revoked because of crimes or activities of one or more permit holders which did not occur on the licensed premises, then only those individuals shall be considered to have had a permit suspended or revoked for purposes of determining whether they are eligible to participate in another permit application.
- (b) (1) Upon receipt of written notice of the denial, suspension or revocation of a license or permit, the applicant whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal by filing suit in the appropriate district court within 30 calendar days after the receipt of notice of the decision of the hearing officer, as applicable. The filing of such suit shall not have the effect of staying denial, suspension or revocation for the sexually oriented business license under this article.
 - (2) If the hearing officer renders a decision adverse to the chief of police, then the chief of police shall have 30 days from which the notice of denial/revocation/suspension is issued in which to file suit in the appropriate district court.

- (3) Failure to file suit shall waive and shall bar any appeal or cause of action if suit is not filed within 30 days.

(2006 Code, sec. 22-50; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.041 Transfer of license; forging or altering license

(a) A person commits an offense if the person transfers a license or permit to another person or operates a sexually oriented business under the authority of a license at any place other than the address designated on the license. A transfer of a license is deemed to have occurred if there is a transfer of more than 50 percent of the ownership or control of a sexually oriented business.

(b) A person commits an offense if the person counterfeits, forges, changes, defaces or alters a license.

(2006 Code, sec. 22-51; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Secs. 6.07.042–6.07.070 Reserved

Division 3. Employees, Conduct and Operations

Sec. 6.07.071 Provisions cumulative

The provisions of this division are expressly made cumulative of other applicable laws including, without limitation, to the entire ordinance. (2006 Code, sec. 22-60; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.072 Permit required

(a) It shall be unlawful for any person who does not hold a manager's permit or temporary manager's permit or to act as a manager of or in a sexually oriented business.

(b) It shall be unlawful for any person who does not hold an entertainer's permit or temporary entertainer's permit to act as an entertainer in a sexually oriented business.

(c) It shall be the duty of a licensee, operator and owner(s) of each sexually oriented business to ensure that no person acts as an entertainer or manager of or in the sexually oriented business unless that person holds a permit or temporary permit.

(2006 Code, sec. 22-61; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.073 Issuance of permits

(a) Any person who desires to obtain an original or renewal permit shall make application to the chief of police or his designee in person at the police department between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, city-observed holidays excepted. The application shall be made under oath upon a form prescribed by the chief of police and shall include:

- (1) The name, home street address and mailing address (if different) of the applicant;
- (2) Proof of the date of birth of the applicant and the identity of the applicant, including at least one photographic identity card issued by a governmental agency; and
- (3) A list of any criminal charges pending, convictions, and time of service in jail or prison as related to any applicable offense that is specified in section 6.07.032 of this article.

(b) Each application shall be accompanied by a nonrefundable processing fee established by the fee schedule. Each applicant shall be required to obtain from the state department of public safety a copy of their criminal history report and surrender it to the police department upon making application.

(c) The chief of police shall issue the permit within three business days from the date of filing of the application unless he finds that the applicant has been convicted of or spent time in jail or prison for an offense specified in section 6.07.032 of this article within the time specified therein. If the application is not granted, then the applicant shall be mailed notice of the grounds and of their right to provide evidence and request a hearing as provided by section 6.07.040 of this article, within ten calendar days from the date of filing of the application.

(d) Each permit issued by the chief of police shall consist of two photographic identification cards, a personal card and an on-site card.

(e) Any applicant whose application is denied and who requests a hearing on the denial shall be granted a hearing within 30 calendar days following the receipt of the request by the chief of police. The hearing shall be conducted as provided in section 6.07.040 of this article.

(f) In the event that the chief of police fails to issue or deny a permit application within the time specified in subsection (c) or to provide a hearing within the time specified in subsection (e), then the applicant shall, upon written request, be immediately issued a temporary permit which shall be valid until the third day after the applicant is given notice of the decision of the chief of police or the hearing officer.

(g) If any personal card or on-site card is lost or stolen, the holder thereof shall immediately notify the police department and request a replacement, which shall be issued for a fee as established by the fee schedule within three days following verification of the identity of the holder.

(h) No permit application shall be accepted nor shall a permit be issued to any person who does not provide proof that he is at least 18 years old. Any permit issued by virtue of any misrepresentation or error to any person under age 18 shall be void, and the holder of such permit shall be subject to criminal prosecution.

(i) A temporary manager's permit or temporary entertainer's permit shall be issued within 24 hours of the application when:

- (1) The application has been completed and submitted to the police department;
- (2) The applicant supplies a copy of a valid and lawful photographic identification card that was issued to the individual by a governmental authority of the United States of America or any state, possession, commonwealth, or territory thereof;
- (3) A preliminary investigation indicates that the applicant is otherwise qualified under this article for the issuance of a temporary permit; and
- (4) The applicant has not applied for or been granted a temporary permit in the year preceding the application.

(2006 Code, sec. 22-62; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Sec. 6.07.074 Term of permit; transfer; amendment

- (a) A permit is valid for one year from the date of its issuance.
- (b) A temporary entertainer's permit or temporary manager's permit shall be valid for 30 calendar days.
- (c) A permit is personal to the named permit holder and is not valid for use by any other person.

(d) Each permit holder shall notify the police department of his new address within ten days following any change of address.

(e) Permits shall be portable from location to location, so long as each such location is a validly licensed sexually oriented business.

(2006 Code, sec. 22-63; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.075 Display of permit

(a) 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.

(b) 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.

(c) In any prosecution under this section, it shall be presumed that the actor did not have a permit unless the permit was on display as required under subsection (a) of this section.

(2006 Code, sec. 22-64; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.076 Revocation of permit

In the event that the chief of police has reasonable grounds to believe that any permit holder has been convicted of or has spent time in jail or prison for any offense as specified in the applicable provision of section 6.07.032 of this article within the time specified therein, then the chief of police may revoke the permit following a notice of the grounds pursuant to section 6.07.038. The permit holder has a right to administrative hearing pursuant to section 6.07.040. In the event that the hearing officer determines that the permit should be revoked, he or she shall then issue or render a decision pursuant to section 6.07.040 following the mailing of notice of the decree to the permit holder in order to allow the permit holder an opportunity before the permit must be surrendered to seek a injunction or judicial review of the decision as authorized in section 6.07.040 of this article. (2006 Code, sec. 22-65; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.077 Nudity and semi-nudity prohibited; exceptions

(a) It shall be unlawful for an individual to intentionally or knowingly appear in a state of nudity or semi-nudity within 50 feet of a public place or establishment that serves or permits the consumption of alcohol.

(b) It shall be unlawful for a person, individual, corporation, or association that manages or operates a sexually oriented business to intentionally or knowingly allow an individual to appear on the premises of said establishment in a state of nudity or semi-nudity.

(c) It shall be unlawful for an owner-operator of a sexually oriented business to intentionally or knowingly allow an individual to appear on the premises of said establishment in a state of nudity or semi-nudity.

(d) Exceptions. It is an exception to the application of this section that at the time of the state of nudity or semi-nudity the actor was:

- (1) An individual, person, or in the case of subsections (b) or (c), an association, who manages, operates, or appears nude in a public place that is a business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, licensed massage therapist, or licensed barber engaged in performing functions authorized under the lawful license held;

- (2) An individual, person, or, in the case of subsections (b) or (c), an association, who owns, manages, operates, or appears nude in a public place that is a business operated by or employing a licensed physician or chiropractor engaged in practicing the healing arts; or
- (3) An individual, person, or in the case of subsections (b) or (c), an association, who owns, manages, operates, or appears nude in a public place that is a business licensed as a tattoo studio or a body piercing studio and was engaged in practices authorized under the license.

(2006 Code, sec. 22-66; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Sec. 6.07.078 Loitering; monitoring of parking lot

- (a) It shall be the duty of the operator of a sexually oriented business to:
 - (1) Ensure that at least two conspicuous signs, visible from a public right-of-way, stating that no loitering is permitted on the premises, are posted on the exterior of the structure;
 - (2) Designate one or more employees to monitor the parking lot of the premises by the use of video cameras and monitors, which shall operate and record continuously at all times that the premises are open for business. The monitors shall be installed within a manager's station, and the operator of a sexually oriented business shall preserve the recordings of the parking lot of the premises for a period of not less than one week before the recording may be erased. Recordings maintained under this section are subject to the inspection requirements set forth in section 6.07.034.
- (b) No sexually oriented business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.
- (c) It shall be unlawful for a person having a duty under this section to intentionally or knowingly fail to fulfill that duty.

(2006 Code, sec. 22-67; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Secs. 6.07.079–6.07.100 Reserved

Division 4. Additional Regulations for Other Sexually Oriented Businesses

Sec. 6.07.101 Escort agencies

- (a) A person commits an offense if the person employs at an escort agency 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.
- (c) An employee of an escort agency must attend training given by the licensee concerning the requirements of this article as they pertain to escort agencies, including but not limited to sections 6.07.008(a), 6.07.034, 6.07.036, 6.07.037, 6.07.105, 6.07.141, 6.07.142, 6.07.143 and 6.07.144, before the employee receives any compensation for the employee's services. The licensee shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, identifying the date on which the training was provided and the specific topics discussed.

(d) A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises operations of the escort agency. At least one individual person so appointed shall be on the premises at any time the escort agency is open.

(e) An operator or an individual person appointed under subsection (d) above shall at all times have the duty to ensure that each employee in the escort agency has received the training required by subsection (c) above and each employee is instructed to commit no act which would constitute a violation of this article or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this article.

(2006 Code, sec. 22-71; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Sec. 6.07.102 Nude model studios

(a) A person commits an offense if the person employs at a nude model studio any person under the age of 18 years.

(b) A person who is not an employee commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of a nude model studio.

(c) A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity or intentionally or knowingly allows another to appear in a state of nudity or semi-nudity in an area of the nude model studio premises which can be viewed from the public right-of-way.

(d) A person commits an offense if the person intentionally or knowingly places or permits a bed, sofa or mattress in any room on the premises of a nude model studio, except that a sofa may be placed in a reception room open to the public.

(e) A licensee, owner, operator or employee commits an offense if the person intentionally or knowingly permits any customer access to an area of the premises not visible from the manager's station by direct line of sight or not visible by a walk-through of the premises without entering a private, exclusive, closed, curtained, or otherwise screened area, excluding restrooms. The view required in this subsection shall be by direct line of sight. The view shall be deemed insufficient if clear visibility of such line of sight must be attained by utilizing flashlights or spotlights in addition to overhead house lighting.

(f) An employee of a nude model studio, while appearing in a state of nudity, commits an offense if the employee intentionally or knowingly touches a customer or the clothing of a customer.

(g) A customer at a nude model studio commits an offense if the customer intentionally or knowingly touches an employee or the clothing of an employee while the employee is appearing in a state of nudity.

(h) A licensee commits an offense if the licensee fails to display the signs on the interior of the nude model studio premises as required in section 6.07.144(a) and/or the floor markings required in section 6.07.144(b).

(i) An employee of a nude model studio commits an offense if that employee allows, asks, directs, or suggests that a customer disrobe to a state of nudity.

(j) An employee of a nude model studio must attend training given by the licensee concerning the requirements of this article as they pertain to nude model studios, including but not limited to sections 6.07.008(a), 6.07.034, 6.07.036, 6.07.037, 6.07.105, 6.07.141, 6.07.142, 6.07.143 and 6.07.144, before the employee receives any compensation for the employee's services. The licensee or operator shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, identifying the date on which the training was provided and the specific topics discussed.

(k) A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the nude model studio. At least one individual person so appointed shall be on the premises at any time the nude model studio is open.

(l) An operator or an individual person appointed under subsection (k) above shall at all times have the duty to ensure that each employee in the nude model studio has received the training required by subsection (j) above and each employee is instructed to commit no act which would constitute a violation of this article or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this article.

(2006 Code, sec. 22-72; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Sec. 6.07.103 Adult theaters and adult motion picture theaters

(a) A person commits an offense if the person employs at an adult theater or an adult motion picture theater any person under the age of 18 years.

(b) A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of an adult theater or an adult motion picture theater.

(c) Adult theaters and adult motion picture theaters shall also comply with the requirements of section 6.07.108 of this article.

(d) An employee of an adult theater or adult motion picture theater must attend training given by the licensee concerning the requirements of this article as they pertain to adult theaters or adult motion picture theaters, including but not limited to sections 6.07.008(a), 6.07.034, 6.07.036, 6.07.037, 6.07.105, 6.07.141, 6.07.142, 6.07.143 and 6.07.144, before the employee receives any compensation for the person's services. The licensee shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, identifying the date on which the training was provided and the specific topics discussed.

(e) A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the adult theater or adult motion picture theater. At least one person so appointed shall be on the premises at any time the adult theater or adult motion picture theater is open.

(f) An operator or a person appointed under subsection (e) above shall at all times have the duty to ensure that each employee in the adult theater or adult motion picture theater has received the training required by subsection (d) above and each employee is instructed to commit no act which would constitute a violation of this article or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this article.

(2006 Code, sec. 22-73; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Sec. 6.07.104 Adult motels

(a) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this 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 subrents a sleeping room to a person and, within ten hours from the time the room is rented, he rents or subrents the same sleeping room again.

(c) For purposes of subsection (b), the term “rent” or “subrent” means the act of permitting a room to be occupied for any form of consideration.

(2006 Code, sec. 22-74; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.105 Adult cabarets

(a) A person commits an offense if the person employs at an adult cabaret any person under the age of 18 years.

(b) An employee of an adult cabaret, while appearing in a state of nudity or semi-nudity, commits an offense if the employee intentionally or knowingly touches a customer or the clothing of a customer.

(c) A customer at an adult cabaret commits an offense if the customer intentionally or knowingly touches an employee appearing in a state of nudity or semi-nudity or the clothing of an employee appearing in a state of nudity or semi-nudity.

(d) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly allows, in a sexually oriented business, any person to appear in a state of nudity or semi-nudity, unless the person is an employee who, while in a state of nudity or semi-nudity, is on a stage (on which no customer is present) at least 18 inches above the floor, and is: (i) at least six feet from any customer (hereinafter called “unenclosed performance stage”), or (ii) physically separated from customers by a wall or partition composed of solid glass or light-transmitting plastic, or substantially equivalent material, extending from the floor of the performance stage to at least five feet above the level of the performance stage, but such that there are not openings in the wall or partition that would permit physical contact between customers and such employee (hereinafter “enclosed performance stage”).

(e) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly 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 private, exclusive, closed, curtained, or otherwise screened area, excluding restrooms. The view required in this subsection shall be by direct line of sight. The view shall be deemed insufficient if clear visibility of such line of sight must be attained by utilizing flashlights or spotlights in addition to overhead house lighting.

(f) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly appears in or allows another to appear in a state of nudity or semi-nudity in an area of the adult cabaret business premises which can be viewed from the public right-of-way.

(g) A licensee, owner or operator commits an offense if the licensee, owner or operator fails to display the signs on the interior of the adult cabaret business premises as required in section 6.07.144(a) and/or the floor markings required in section 6.07.144(b).

(h) An employee of an adult cabaret must attend training provided by the licensee, owner or operator concerning the requirements of this article as they pertain to adult cabarets, including but not limited to sections 6.07.008(a), 6.07.034, 6.07.036, 6.07.037, 6.07.105, 6.07.141, 6.07.142, 6.07.143 and 6.07.144, before the employee receives any compensation for the person’s services. The licensee, owner or operator shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee, owner or operator shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee’s attendance at and participation in training provided by the licensee, owner or operator, identifying the date on which the training was provided and the specific topics discussed.

(i) A licensee shall designate and appoint one or more individuals to operate, manage, direct, and control the premises and operations of the adult cabaret. At least one person so appointed shall be on the premises at any time the adult cabaret is open.

(j) An operator or a person appointed under subsection (i) above shall at all times have the duty to ensure that each employee in the adult cabaret has received the training required by subsection (h) above and each employee is instructed to commit no act which would constitute a violation of this article or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this article.

(2006 Code, sec. 22-75; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Sec. 6.07.106 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 or apparent control of the premises shall be presumed to be operating the sexual encounter center.

(2006 Code, sec. 22-76; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.107 Adult bookstores, adult novelty stores and adult video stores

(a) A person who operates or causes to be operated an adult bookstore, adult novelty store or adult video store shall comply with the following requirements:

- (1) An application for a sexually oriented business license for an adult bookstore, adult novelty store or adult video store 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 license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north, or to some designated street or object, and shall 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 building official 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 the previously submitted diagram was prepared.
- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the building official.
- (4) A licensee, owner or operator commits an offense if the licensee, owner or operator permits a manager's station to be unattended by an employee at any time a customer is present on, in or about the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any customer is permitted access for any purpose, excluding restrooms and fitting/dressing rooms (in stores that sell apparel). Restrooms and fitting/dressing rooms may not contain video reproduction equipment or any other equipment allowing for the viewing of film, videos, photographs or other video reproduction. Only one person shall be allowed in each restroom at any time, unless otherwise required by law. The operator shall insure that not more than one person is permitted to enter a restroom, unless otherwise required by law, and that no persons engage in any specified sexual activity in the restroom. If the premises have 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 customer is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

- (6) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly permits a customer access to any area of the premises that is not visible from the manager's station for any purpose, excluding restrooms and fitting/dressing rooms.
- (7) Each and every licensee, owner, operator and employee present on the premises shall ensure that the view area specified in subsection (a)(5) of this section remains unobstructed by any doors, curtains, partitions, walls, blinds, locks or other control-type devices, merchandise, display racks or other materials at all times that any customer is present on, in or about the premises, and that no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted in the application filed pursuant to subsection (a)(1) of this section.
- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured as the floor level.
- (9) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly permits illumination of any area of the premises to which customers have access to be less than one footcandle as measured at the floor level.
- (10) No viewing room or reading room or booth, or fitting/dressing room, may be occupied by more than one person at any time.
- (11) No licensee, owner, operator or employee shall allow openings or holes of any kind to exist between adjacent or adjoining viewing rooms, reading rooms or booths, or fitting/dressing rooms.
- (12) No person shall make or attempt to make an opening or hole of any kind between adjacent or adjoining viewing rooms, reading rooms or booths, or fitting/dressing rooms.
- (13) The licensee, owner, operator or employee shall, during each business day, regularly inspect the walls of all viewing rooms, reading rooms or booths, or fitting/dressing rooms, to determine if any openings or holes exist.
- (14) The walls of any viewing room or reading room or booth shall be no more than 48 inches tall. At least one wall of any such viewing room or reading room or booth shall be visible in a direct unobstructed line of sight from the manager's station. Each wall or door of any such viewing room or reading room or booth shall be constructed of clear transparent glass, plastic or substantially equivalent materials that allow an unobstructed view of the entire interior of the viewing room or reading room or booth.
- (15) Live entertainment is prohibited in any viewing room or reading room or booth, as well as any other room adjacent to or visible from any viewing room or reading room or booth.
- (16) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly allows a person to appear in a state of nudity or semi-nudity in, on or about the premises of an adult bookstore, adult novelty store or adult video store.
- (17) A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of an adult bookstore, adult novelty store or adult video store.

- (18) It is a defense to prosecution under subsections (a)(16) and (17) of this section if the person was in a restroom or fitting/dressing room not open to public view or persons of the opposite sex.
- (b) A person having a duty under subsections (a)(1) through (17) herein commits a misdemeanor if he or she knowingly fails to fulfill that duty.
- (c) An employee of an adult bookstore, adult novelty store or adult video store must attend training provided by the licensee, owner or operator concerning the requirements of this article as they pertain to such a business, including but not limited to sections 6.07.008(a), 6.07.034, 6.07.036, 6.07.037, 6.07.105, 6.07.141, 6.07.142, 6.07.143 and 6.07.144, before the employee receives any compensation for the person's services. The licensee, owner or operator shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, owner or operator, identifying the date on which the training was provided and the specific topics discussed.
- (d) A licensee, owner or operator shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the adult bookstore, adult novelty store or adult video store. At least one person so appointed shall be on the premises at any time the adult bookstore, adult novelty store or adult video store is open.
- (e) An operator or a person appointed under subsection (d) above shall at all times have the duty to ensure that each employee in the adult bookstore, adult novelty store or adult video store has received the training required by subsection (c) above and each employee is instructed to commit no act which would constitute a violation of this article or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this article.

(2006 Code, sec. 22-77; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Sec. 6.07.108 Exhibition of sexually explicit films, photographs, pictures or videos

- (a) 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, a film, photograph, picture, videocassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
- (1) An application for a sexually oriented business license 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 license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north, or to some designated street or object, and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The chief of police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since the previously submitted diagram was prepared.
 - (2) The application shall be sworn to be true and correct by the applicant.
 - (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the chief of police.

- (4) The licensee, owner or operator commits an offense if the licensee, owner or operator permits a manager's station to be unattended by an employee at any time a customer is present on, in or about the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any customer is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment or any other equipment allowing for the viewing of film, videos, photographs or other video reproductions. If the premises have 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 customer is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) The licensee, owner or operator commits an offense if the licensee, owner or operator permits a customer access to any area of the premises that is not visible from the manager's station for any purpose, excluding restrooms.
- (7) The licensee, owner, operator or employee present on the premises shall ensure that the view area specified in subsection (5) of this section remains unobstructed by any doors, curtains, partitions, walls, blinds, locks or other control-type devices, merchandise, display racks or other materials at all times that any customer is present on, in or about the premises, and that no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted in the application filed pursuant to subsection (a)(1) of this section.
- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured as the floor level.
- (9) The licensee, owner or operator commits an offense if the licensee, owner or operator permits illumination of any area of the premises to which customers have access to be less than one footcandle as measured at the floor level.
- (10) No viewing room or booth of less than 150 square feet of floor space shall be occupied by more than one person at any time.
- (11) No licensee, owner or operator shall allow openings or holes of any kind to exist between adjacent or adjoining viewing rooms or booths.
- (12) No person shall make or attempt to make an opening or hole of any kind between adjacent or adjoining viewing rooms or booths.
- (13) The licensee, owner or operator shall, during each business day, regularly inspect the walls of all viewing rooms or booths to determine if any openings or holes exist.
- (14) In a viewing room or booth of less than 150 square feet of floor space, the walls shall be no more than 48 inches tall. At least one wall of any such viewing room or booth shall be visible in a direct unobstructed line of sight from the manager's station. Each wall or door of any such viewing room or booth shall be constructed of clear transparent glass, plastic or substantially equivalent materials that allow an unobstructed view of the entire interior of the viewing room or booth.
- (15) Live entertainment is prohibited in any viewing room or booth of less than 500 square feet of floor space, as well as any other room adjacent to or visible from any viewing room or booth.

- (16) The licensee, owner or operator commits an offense if the licensee, owner or operator intentionally or knowingly allows a person to appear in a state of nudity or semi-nudity in, on or about the premises of a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 500 square feet of floor space, a film, photograph, picture, videocassette or other video reproduction which depicts specified sexual activities or specified anatomical areas.
 - (17) A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 500 square feet of floor space, a film, photograph, picture, videocassette or other video reproduction which depicts specified sexual activities or specified anatomical areas.
 - (18) It is a defense to prosecution under subsections (a)(16) and (17) of this section if the person was in a restroom not open to public view or persons of the opposite sex.
- (b) A person having a duty under subsections (a)(1) through (17) herein commits a misdemeanor if he or she knowingly fails to fulfill that duty.
- (c) An employee of a sexually oriented business that exhibits sexually explicit films, photographs, pictures or videos must attend training given by the licensee concerning the requirements of this article as they pertain to such a business, including but not limited to sections 6.07.008(a), 6.07.034, 6.07.036, 6.07.037, 6.07.105, 6.07.141, 6.07.142, 6.07.143 and 6.07.144, before the employee receives any compensation for the person's services. The licensee, owner or operator shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee, owner or operator shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, owner or operator, identifying the date on which the training was provided and the specific topics discussed.
- (d) A licensee, owner or operator shall designate and appoint one or more individuals to manage, operate, direct, and control the premises and operations of the sexually oriented business. At least one person so appointed shall be on the premises at any time the sexually oriented business as described in this section is open.
- (e) An operator or a person appointed under subsection (d) above shall at all times have the duty to ensure that each employee in the sexually oriented business has received the training required by subsection (c) above and each employee is instructed to commit no act which would constitute a violation of this article or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this article.

(2006 Code, sec. 22-78; Ordinance 10-09-853, sec. 2, adopted 9/7/10; Ordinance adopting 2015 Code)

Secs. 6.07.109–6.07.140 Reserved

Division 5. Miscellaneous Regulations

Sec. 6.07.141 Hours of operation

No sexually oriented business, except for an adult motel, may remain open at any time except between the hours of 12:00 p.m. (noon) and 9:00 p.m. on weekdays and Saturdays, and from 2:00 p.m. until 9:00 p.m. on Sundays. (2006 Code, sec. 22-80; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.142 Prohibition against children in sexually oriented business

A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally, knowingly, or recklessly allows a person under the age of 18 years on the premises of a sexually oriented business. (2006 Code, sec. 22-81; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.143 Employees in state of nudity or semi-nudity—Restrictions

(a) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly allows, in a sexually oriented business, a person to appear in a state of nudity or semi-nudity, unless the person is an employee who, while in a state of nudity or semi-nudity, is on a stage (on which no customer is present) at least 18 inches above the floor, and is (i) at least six feet from any customer (hereinafter called “unenclosed performance stage”), or (ii) physically separated from customers by a wall or partition composed of solid glass or light-transmitting plastic, or substantially equivalent material, extending from the floor of the performance stage to at least five feet above the level of the performance stage, but such that there are not openings in the wall or partition that would permit physical contact between customers and such employee (hereinafter “enclosed performance stage”).

(b) It is an offense for an employee, while in a state of nudity or semi-nudity in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity directly to any employee, while that employee is in a state of nudity or semi-nudity in a sexually oriented business. Such gratuity or pay may be provided to such employee through a tip receptacle, located more than six feet from the nearest point of the performance stage where such employee is in a state of nudity, or may be paid to an employee that is not in a state of nudity or semi-nudity, as part of the customer’s bill.

(c) It is an offense if an employee, while in a state of nudity or semi-nudity, touches a customer or the clothing of a customer.

(d) It is an offense if a customer touches an employee appearing in a state of nudity or semi-nudity or clothing of the employee.

(2006 Code, sec. 22-82; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.144 Same—Conspicuous signage and markings required

(a) A licensee, owner or operator commits an offense if the licensee, owner or operator fails to display a sign on the interior of the sexually oriented business premises notifying customers and employees of the prohibition prescribed by section 6.07.143(a), (b), (c) and (d). The sign must be prominently and continuously displayed where customers enter the premises, and immediately adjacent to each stage, and must state in letters at least two inches high:

TOUCHING OR TIPPING AN EMPLOYEE WHO IS IN A STATE OF NUDITY OR SEMI-NUDITY IS A CRIME (MISDEMEANOR), PUNISHABLE BY FINE UP TO \$2,000. PATRONS SHALL REMAIN AT LEAST SIX (6) FEET FROM ALL UNENCLOSED PERFORMANCE STAGES WHILE A PERSON IS PERFORMING ON SAID PERFORMANCE STAGE.

The chief of police may require, at the time of issuance or renewal of the license, the licensee, owner or operator to also display the sign in a language other than English if he determines that a substantial portion of the expected customers speak the other language as their familiar language. Upon notification, a licensee, owner or operator commits an offense if the sign does not contain the language in the required language, in addition to English.

(b) A licensee, owner or operator commits an offense if the licensee, owner or operator fails to prominently and continuously display a two inches wide glow-in-the-dark line on the floor of the sexually oriented business marking a distance of six feet from each unenclosed stage on which an employee in a state of nudity may appear in accordance with section 6.07.143(a).

(2006 Code, sec. 22-83; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Sec. 6.07.145 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.

(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 to permit any person to appear in a state of nudity or semi-nudity.

(2006 Code, sec. 22-84; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

Secs. 6.07.146–6.07.170 Reserved

Division 6. Sign Requirements

Sec. 6.07.171 Sign requirements

(a) Posting of sign on intent to locate sexually oriented businesses.

(1) The following requirements apply for posting a sign concerning intent to locate a sexually oriented business:

(A) 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 V.T.C.A., Local Government Code sec. 243.0075, as amended, not later than the 60th day before submitting the application for a sexually oriented business license.

(B) The sign shall comply with V.T.C.A., Local Government Code sec. 243.0075, as amended.

(i) The sign must be at least 24 by 36 inches in size;

(ii) All letters must be at least two inches in height and one and one-half inches in width for each letter on the sign;

(iii) The sign shall state that a sexually oriented business is intended to be located on the premises;

(iv) The sign shall provide the name and business address of the owner and operator;

(v) All required information must be presented in both English and Spanish;

(vi) All required information must read horizontally from left to right; and

(vii) The sign shall be prominently posted such that it is clearly legible from the public right-of-way.

(C) 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 V.T.C.A., Local Government Code sec. 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 V.T.C.A., Local Government Code sec. 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.

- (D) 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 6.07.005(b) and (c) within 1,000 feet of the posted location.
- (E) Subsection (D) above does not apply if:
 - (i) A completed and correct 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 V.T.C.A., Local Government Code sec. 243.0075, as amended;
 - (ii) The application for a license is withdrawn or denied; or
 - (iii) The notification requirements of subsection (C) are not met.

(b) Primary and secondary signs.

- (1) Notwithstanding any provision of the city's development code or any other city ordinance, code, or regulation to the contrary, the licensee, owner or operator of any sexually oriented business or any other person commits an offense if he erects, constructs, or maintains any sign for the establishment other than one primary sign and one secondary sign, as provided in this section.
- (2) A primary sign may have no more than two display surfaces. Each display surface must:
 - (A) Not contain any flashing lights;
 - (B) Be a flat plane, rectangular in shape;
 - (C) Not exceed 75 square feet in area; and
 - (D) Not exceed ten feet in height or ten feet in length.
- (3) A secondary sign may have only one display surface. The display surface must:
 - (A) Not contain any flashing lights;
 - (B) Be a flat plane, rectangular in shape;
 - (C) Not exceed 20 square feet in area;
 - (D) Not exceed five feet in height or four feet in length; and
 - (E) Be affixed or attached to a wall or door of the establishment.
- (4) A primary or secondary sign, including a temporary sign, must contain no photographs, silhouettes, drawings, or pictorial representations of any manner, and may contain only:
 - (A) The name of the establishment; and/or

- (B) One or more of the following phrases:
 - (i) “Adult arcade.”
 - (ii) “Adult bookstore, adult novelty store or adult video store.”
 - (iii) “Adult cabaret.”
 - (iv) “Adult motel.”
 - (v) “Adult motion picture theater.”
 - (vi) “Adult theater.”
 - (vii) “Escort agency.”
 - (viii) “Nude model studio.”
- (5) In addition to the phrases listed in subsection (b)(4)(B) of this section, a primary sign for an adult motion picture theater may contain the phrase “Movie Title Posted on Premises,” and a primary sign of an adult bookstore, adult novelty store or adult video store may contain the word “DVDs.”
- (6) Each letter forming a word on a primary or secondary sign must be of a solid color, and each letter must be the same print-type, size, and color. The background behind the lettering on the display surface of a primary or secondary sign must be of a uniform and solid color.

(2006 Code, sec. 22-90; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

CHAPTER 7

RESERVED

CHAPTER 8

FIRE PREVENTION AND PROTECTION

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ARTICLE 8.01 GENERAL PROVISIONS***(Reserved)****ARTICLE 8.02 FIRE CODE****Sec. 8.02.001 Penalty**

Any person, firm, or corporation violating any of the provisions or terms of this article or the code adopted herein shall be guilty of a misdemeanor and, upon conviction in the municipal court, shall be subject to a fine not to exceed \$2,000.00 for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense. (2006 Code, sec. 34-21; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.002 Adoption

There is hereby adopted by the city council as the fire code for the city that certain code known as the International Fire Code, 2006 edition, including appendix chapters B, E, and F of the International Fire Code, 2006 edition, published by the International Code Council, for the purpose of prescribing regulations governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property as herein provided, and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended by this article, of which code standards copies have been and are now filed in the office of the city secretary, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this article shall take effect the provisions thereof shall be controlling within the limits of the city. (2006 Code, sec. 34-22; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.003 Administration

Section 101 of the International Fire Code adopted in section 8.02.002 is amended as follows:

101.1 Title. These regulations shall be known as the Fire Code of the City of Murphy, hereinafter referred to as "this code."

Section 102 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 102.1; add #5:

102.1 Construction and design provisions.

5. The provisions of this code apply to buildings built under the IRC and IBC.

Section 102.4; change to read as follows:

102.4 Application of other codes. The design and construction of new structures shall comply with this code, and other codes as applicable; and any alterations, additions, changes in use or changes in structures required by this code which are within the scope of this and other codes shall be made in accordance therewith.

Section 102.6; change to read as follows:

102.6 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in chapter 45 and such codes, when specifically adopted, and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur

* **State law reference**—Fire department in home-rule municipality, V.T.C.A., Local Government Code, sec. 342.011.

between the provisions of this code and the referenced standards, the provisions of this code shall apply. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the ICC Electrical Code shall mean the electrical code as adopted.

(2006 Code, sec. 34-23; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.004 Fire department

There is hereby adopted by the city council that the fire department is established as a department of the city and shall be operated under the supervision of the chief of the fire department. The fire chief shall supervise members of the department, establish rules, regulations, and procedures, hire personnel, assign personnel, promote or demote personnel, organize and reorganize the department as needed, reprimand, suspend, or dismiss members, prepare and administer the department budget, prepare specifications for equipment, facilities, and materials, enforce rules, regulations, and procedures, command emergency incidents when available, purchase equipment, services, and materials, and all other duties as allowed by federal, state, and local laws. (2006 Code, sec. 34-24; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

State law reference—Fire department in home-rule municipality, V.T.C.A., Local Government Code, sec. 342.011.

Sec. 8.02.005 Fire prevention division

Section 103 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Sections 103.1, 103.2, 103.3; change to read as follows:

103.1 General. The fire code shall be enforced by the division of fire prevention. The division of fire prevention is hereby established as a division of the city fire department and shall be operated under the supervision of the chief of the fire department.

103.2 Appointment. The fire marshal in charge of the division of fire prevention shall be appointed by the fire chief on the basis of proper qualification.

103.3 Deputies. The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary and each member so assigned shall be authorized to enforce the provisions of the International Fire Code. The chief of the fire department may recommend to the city manager the employment of technical inspectors who, when such authorization is made, shall be appointed on the basis of proper qualification. The position shall be open to members and non-members of the fire department.

(2006 Code, sec. 34-25; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.006 Permits; inspection fees; violations; unsafe buildings

Section 104 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 104.2; change to read as follows:

104.2 Applications and permits. The fire code official is authorized to review construction documents regulated by this code, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code. Applications and permits must be submitted in accordance with City of Murphy standard practices for application and permit submittal.

Section 105 of the International Fire Code adopted in section 8.02.002 is amended as follows:

105.6.27 LP-gas. An operational permit is required for:

1. Storage and use of LP-gas.

Exceptions:

1. A permit is not required for individual containers with a 20-gallon (1,993 L) water capacity or less serving occupancies in Group R-3.
2. Operation of cargo tankers that transport LP-gas.

Section 106 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 106.2; add sections 106.2.1, 106.2.2, and 106.2.3 as follows:

106.2.1 Inspection fees. The fire chief or his designated representative shall inspect all buildings, premises or portions thereof as often as may be necessary, in accordance with section 103.3 of the International Fire Code as amended. An initial inspection and one reinspection shall be made free of charge. If the fire chief or his designee is required to make follow-up inspections after the initial inspection and reinspection to determine whether a violation or violations observed during the previous inspections have been corrected, a fee shall be charged. The occupant, lessee, or person making use of the building or premises shall pay the fee or fees within 30 days of being billed as a condition to continued lawful occupancy of the building or premises. If the fee is not paid within 30 days, the certificate of occupancy shall be considered invalid. All occupancies within the city shall have a valid certificate of occupancy issued by the city.

106.2.2 Inspection requests. It shall be the duty of the permit holder or their duly authorized agent to notify the fire code official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

106.2.3 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the fire code official. The fire code official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the fire code official.

Section 109 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 109.3; change to read as follows:

109.3 Violation penalties. Any person, firm, or corporation violating a provision of this code or who shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used [issued] under provisions of this code, shall be guilty of a misdemeanor, and upon conviction in the municipal court shall be subject to a fine not to exceed \$2,000.00 for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

Section 110 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 110.2; add the following paragraph to existing section:

110.2 Evacuation. The activation of the building fire alarm constitutes notification that the building is to be immediately evacuated.

Section 111 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 111.4; change to read as follows:

111.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine not to exceed \$2,000.00 for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

(2006 Code, sec. 34-26; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.007 Definitions

Section 202 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 202; amend definition as follows:

FIRE WATCH. A temporary measure intended to ensure continuous and systematic surveillance of a building or portion thereof by one or more qualified individuals or standby personnel when required by the fire code official, for the purposes of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the fire department.

Section 202; add new definitions to read as follows:

ADDRESSABLE FIRE DETECTION SYSTEM. Any system capable of providing identification of each individual alarm-initiating device. The identification shall be in plain English and as descriptive as possible to specifically identify the location of the device in alarm. The system shall have the capability of alarm verification.

ANALOG INTELLIGENT ADDRESSABLE FIRE DETECTION SYSTEM. Any system capable of calculating a change in value by directly measurable quantities (voltage, resistance, etc.) at the sensing point. The physical analog may be conducted at the sensing point or at the main control panel. The system shall be capable of compensating for long-term changes in sensor response while maintaining a constant sensitivity. The compensation shall have a present point at which a detector maintenance signal shall be transmitted to the control panel. The sensor shall remain capable of detecting and transmitting an alarm while in maintenance alert.

HIGH-RISE BUILDING. A building having any floors used for human occupancy located more than 55 feet (16,764 mm) above the lowest level of fire department vehicle access.

SELF-SERVICE STORAGE FACILITY. Real property designed and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

STANDBY PERSONNEL. Qualified fire service personnel, approved by the fire chief. When utilized, the number required shall be as directed by the fire chief. Charge for utilization shall be in accordance with the adopted fee schedule.

(2006 Code, sec. 34-27; Ordinance 09-03-789, sec. 2, adopted 3/16/09; Ordinance adopting 2015 Code)

Sec. 8.02.008 Prohibited open burning

Section 307 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 307.2; change to read as follows:

307.2 Permit required. A permit shall be obtained from the fire code official in accordance with section 105.6 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or open burning. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled. Permits require a minimum three-calendar-day notice and are subject to fees set by the city.

Examples of state or local law or regulations referenced elsewhere in this section may include but not be limited to the following:

1. Texas Commission on Environmental Quality guidelines and/or restrictions.
2. State, county or local temporary or permanent bans on open burning.
3. Local written policies as established by the code official.

Exceptions:

1. Permits may be issued for recreational fires not to exceed three feet in diameter and two feet in height, and are located a minimum of 25 feet from any structure or property line or other combustible material.
2. Permits may be issued for warming fires when the following are met:
 - a. The fire is placed in a noncombustible barrel not to exceed 55 gallons in size.
 - b. The barrel must have a screen secured to the top of the barrel.
 - c. The barrel must be located a minimum of 50 feet from any structure or property line or other combustible material.

Section 307.4; change to read as follows:

307.4 Location. The location for open burning shall not be less than 300 feet (91,440 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 300 feet (91,440 mm) of any structure.

(exceptions unchanged)

Section 307.4.3; add to read as follows:

307.4.3 Trench burns. Trench burns shall be conducted in air curtain trenches and in accordance with section 307.2.

Section 307.5; change to read as follows:

307.5 Attendance. Open burning, trench burns, bonfires or recreational fires shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with section 906 with a minimum 4-A rating or other approved on-site fire extinguishing equipment, such as dirt, sand water barrel, garden hose or water truck, shall be available for immediate utilization.

Section 308 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 308.3.1; change to read as follows:

308.3.1 Open-flame cooking and heating devices. Open-flame cooking devices, charcoal grills, outdoor fireplaces and other similar devices used for cooking, heating or any other purpose shall not be located or used on combustible balconies, decks, or within 10 feet (3048 mm) of combustible construction.

Exceptions:

1. One- and two-family dwellings.
2. Where buildings, balconies and decks are protected by an approved automatic sprinkler system.

Section 308.3.1.1; amend to add the following exceptions:

Exceptions:

1. One- and two-family dwellings may have containers with a water capacity not greater than 20 pounds (9.08 kg) (nominal 8 pound (3.632 kg) LP-gas capacity) with an aggregate capacity not to exceed 100 lbs. (5 containers).
2. Other residential occupancies where buildings, balconies and decks are protected by an approved automatic sprinkler system may have containers with a water capacity not greater than 20 pounds (9.08 kg) (nominal 8 pound (3.632 kg) LP-gas capacity), with an aggregate capacity not to exceed 40 lbs. (2 containers).

(2006 Code, sec. 34-28; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

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.

Sec. 8.02.009 Emergency planning and preparedness

Section 401 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 401.3.2; change to read as follows:

401.3.2 Alarm activations. Upon activation of a fire alarm signal, employees, staff, or patrons shall immediately notify the fire department. All persons in the building shall immediately evacuate the building.

Exception:

1. When a facility has an emergency plan approved by the fire official that calls for certain personnel to remain in the facility, they may do so as provided in the plan, unless directed otherwise by a member of the fire department.

Section 401.3; add section 401.3.4 as follows:

401.3.4 Fire alarms and nuisance alarms. False alarms and nuisance alarms shall not be given, signaled or transmitted or caused or permitted to be given, signaled or transmitted in any manner.

Section 403.1; add the following to the first paragraph:

There shall be trained crowd managers or crowd manager supervisors at a ratio of one crowd manager/supervisor for every 250 occupants, as approved. Standby personnel shall be members of the city fire department and shall be compensated at 1-1/2 times regular salary with a minimum compensation of \$30.00 per hour measured with a two-hour minimum. Salary is to be paid by the outside party conducting the event and shall be payable to the individual fire department member directly within two weeks of the date worked.

(2006 Code, sec. 34-29; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.010 Fire lanes

Section 501 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 501.3; add section 501.3.1 as follows:

Fire lanes provided during the platting process shall be so indicated on the plat as an easement. Where fire lanes are provided and a plat is not required, the limits of the fire lane shall be shown on a site plan and placed on permanent file with the fire prevention division.

Section 501.4; add the following to the first paragraph:

Upon installation, fire lanes shall be marked in accordance with section 503.3.

Section 503 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 503.1.1; add the following to the first paragraph:

Except for single- or two-family residences, the path of measurement shall be along a minimum of a ten feet (10') wide unobstructed pathway around the external walls of the structure.

The provisions of this section notwithstanding, fire lanes may be required to be located within 30 feet of a building if deemed to be reasonably necessary by the fire chief to enable proper protection of the building.

Fire lane and access easements shall be provided to serve all buildings through parking areas, to service entrances of buildings, loading areas and trash collection areas, fire department sprinkler and standpipe connections, and other areas deemed necessary to be available to fire and emergency vehicles. The fire chief is authorized to designate additional requirements for fire lanes where the same is reasonably necessary so as to provide access for fire and rescue personnel.

Section 503.1.2; change to read as follows:

503.1.2 Additional access. All structures and subdivisions shall provide two points of access. The two points of access shall be a minimum of 140 feet apart unless otherwise approved by the fire chief.

Section 503.2.1; change to read as follows:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 24 feet (7315 mm), except for approved security gates in accordance with section 503.6, and an unobstructed vertical clearance of not less than 14 feet (4267 mm).

Exception: Vertical clearance may be reduced, provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance when approved.

Section 503.2.2; change to read as follows:

503.2.2 Authority. The fire code official shall have the authority to require an increase in the minimum access widths and vertical clearances where they are inadequate for fire or rescue operations.

Section 503.2.3; change to read as follows:

503.2.3 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.

Fire lanes shall be constructed of a concrete surface capable of supporting the imposed loads of fire apparatus and meeting the requirements of the city parking lot standards. Those portions of the fire lane within 60 feet of the structure to be protected shall be constructed with six-inch thick, 3,000 psi concrete reinforced with no. 3 bars spaced 24 inches on center both ways and with subgrade to a density not less than 95 percent as determined by TSDHPT Test Method Tex-113.

Section 503.2.4; change to read as follows:

503.2.4 Turning radius. If two or more interconnecting lanes are provided, interior radius for that connection shall be required in accordance with the following:

For 90-degree or greater turns only:

1. 22-foot fire lane - minimum radius 30 feet.
2. 24-foot fire lane - minimum radius 20 feet.
3. 30-foot fire lane - minimum radius 10 feet.

For turns tighter than 90 degrees, American Association of State and Highway Transportation Officials (AASHTO) Geometric Design of Highways and Streets shall be utilized.

Section 503.2.5; change to read as follows:

503.2.5 Dead-ends. Fire lane easements shall either connect both ends to a dedicated street or be provided with an approved turnaround. A cul-de-sac shall not exceed 600 feet in length as measured from the centerline of the intersecting street to the center point of the bulb of the cul-de-sac having a minimum 50-foot outer radius.

Section 503.2.7; change to read as follows:

503.2.7 Grade. The grade of the fire apparatus access road shall not exceed six percent. All bridges and fire lane grades shall meet the city engineering specifications.

Sections 503.2.8, 503.2.9, and 503.2.10; add sections as follows:

503.2.8 Existing fire lanes. When 40 percent of existing nonconforming fire lanes are replaced within a 12-month period, the entire fire lane shall be replaced according to current standards.

503.2.9 Maintenance. All fire lanes shall be maintained and kept in a good state of repair at all times by the owner and the city shall not be responsible for the maintenance thereof. It shall further be the responsibility of the owner to ensure that all fire lane markings required by section 503.3 be kept so that they are easily distinguishable by the public and emergency response personnel.

503.2.10 Fire lane closing. No owner or person in charge of any premises served by a fire lane or access easement shall abandon, restrict or close any fire lane or easement without first securing from the city approval of an amended plat or other acceptable legal instrument showing the removal of the fire lane.

Section 503.3; change to read as follows:

503.3 Marking. Approved striping shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. In addition to striping, signs or other markings may be required as deemed necessary. Striping, signs and other markings shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

- (1) Striping. Fire apparatus access roads shall be continuously marked by painted lines of red traffic paint six inches (6") in width to show the boundaries of the lane. The words "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" shall appear in four inch (4") white letters at 25 feet intervals on the red border markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the vertical face of the curb.
- (2) Signs. Signs shall read "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" and shall be 12" wide and 18" high. Signs shall be painted on a white background with letters and borders in red, using not less than 2" lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be six feet, six inches (6'6") above finished grade. Signs may be installed on permanent buildings or walls or as approved by the fire chief.

Section 503.4; change to read as follows:

503.4 Obstruction of fire apparatus access roads. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in section 503.2.1 and any area marked as a fire lane as described in section 503.3 shall be maintained at all times. Vehicles not in motion that are blocking any portion of a designated fire lane shall not be permitted. Loading and unloading of vehicles is not permitted within a fire lane.

Sections 503.4.1 and 503.4.2; add sections as follows:

503.4.1 Barriers. A five-foot-wide level pathway shall be provided unobstructed through all barriers. A continuous row of parking between the fire lane and the structure shall be considered a barrier.

503.4.2 Forced violations. Self-service and full-service amenities (i.e., water dispensers, air dispensers, public telephones, et al) shall not be located or placed along fire lanes so that patrons are required to violate section 503.4 of this code to utilize such amenities.

The fire code official may require loading and unloading areas be provided for properties where forced violations of section 503.4 are predictable. Circumstances where this could occur include but are not limited to large and/or frequent deliveries of goods and services and where patron volumes fluctuate beyond parking capacities.

Section 503.6; change to read as follows:

503.6 Security gates. Where security fencing is necessary, the owner shall provide gates or openings which may be secured. Gates when provided must open fully in either direction or be of a sliding or raised arm type. The main entry gates serving Group R and I occupancies shall be equipped with an approved automated entry system. All other entry points along the fire lane must be automated or Knox compatible as approved by the fire chief, to permit immediate access by fire personnel and equipment in the event of fire or emergency. All opening devices must meet the requirements of the Murphy fire-rescue department.

Section 503.7; section added as follows:

503.7 Authorization. The fire chief is authorized to modify the requirements of this subchapter where approved fire protection systems provide the necessary degree of safety.

(2006 Code, sec. 34-30; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.011 Premises identification

Section 505 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 505.1; replace to read as follows:

505.1 Address numbers. Approved numerals of a minimum 6" height and of a color contrasting with the background designating the address shall be placed on all new and existing buildings or structures in a position as to be plainly visible and legible from the street or road fronting the property and from all rear alleyways/access.

Where buildings do not immediately front a street, approved 6-inch height building numerals or addresses and 3-inch height suite/apartment numerals of a color contrasting with the background of the building shall be placed on all new and existing buildings or structures. Numerals or addresses shall be posted on a minimum 20-inch by 30-inch background on border.

Address numbers shall be Arabic numerals or alphabet letters. The minimum stroke width shall be 0.5 inches.

Exception: R-3 single-family occupancies shall have approved numerals of a minimum 3-1/2 inches in height and a color contrasting with the background clearly visible and legible from the street fronting the property and rear alleyway where such alleyway exists.

Section 506 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 506.1.2; add section as follows:

506.1.2 Contents. Each key in approved key boxes must be permanently marked or stamped to identify the room, suite, area, or lock it accesses and the number of keys in the box must not exceed the listed capacity of the box.

(2006 Code, sec. 34-31; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.012 Water supply

Section 508 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 508.5.1; add paragraph and amend exceptions to read as follows:

As properties develop, fire hydrants shall be located at all intersecting streets and at the maximum spacing indicated in table 508.5.1. Distances between hydrants shall be measured along the route that the fire hose

is laid by a fire vehicle from hydrant to hydrant. A fire hydrant is required at the start of the bulb of a cul-de-sac unless the distance to the next closest hydrant is 200 feet or less.

Table 508.5.1 Maximum Distance Between Hydrants

Occupancy	Sprinklered	Non-Sprinklered
Residential (1 and 2)	500 feet	400 feet
Residential (multifamily)	400 feet	300 feet
All other	400 feet	300 feet

Exceptions:

1. For Group R-3 and Group 4 occupancies, the distance requirement shall be 300 feet.
2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with section 903.1.1 or 903.3.1.2, the distance requirement shall be 400 feet.

Sections 508.5.1.1, 508.5.1.2, and 508.5.1.3; add sections as follows:

Section 508.5.1.1 Protected properties. Fire hydrants required to provide a supplemental water supply for an automatic fire protection system shall be within 100 feet of the fire department connection for such system.

Section 508.5.1.2 Fire hydrant locations. Fire hydrants shall be located two feet to six feet back of curb or fire lane and shall not be located in the bulb of a cul-de-sac.

Section 508.5.1.3 Minimum number of hydrants. There shall be a minimum of two fire hydrants serving each property within the prescribed distances listed above.

Exception: Where conditions of section 508.5.1.4 are met.

Section 508.5.1.4 Existing fire hydrants. Existing fire hydrants on public streets are allowed to be considered as available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads.

(2006 Code, sec. 34-32; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.013 Emergency radio communications

Section 511 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 511; add section 511, Emergency Radio Communications, to read as follows:

SECTION 511 EMERGENCY RADIO COMMUNICATIONS

511.1 Signal strength in buildings. In all new and existing buildings in which the type of construction or distance from an operational emergency services antenna or dispatch site does not provide adequate frequency or signal strength as determined by the code official, the building owner shall be responsible for providing the equipment, installation and maintenance of said equipment in a manner to strengthen the radio signal. The radio signal shall meet the minimum input/output strengths according to the emergency radio system's provider and system manager.

(2006 Code, sec. 34-33; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.014 Floor openings and shafts

Section 704 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 704.1; change to read as follows:

704.1 Enclosure. Interior vertical shafts, including but not limited to stairways, elevator hoistways, service and utility shafts, that connect two or more stories of a building shall be enclosed or protected in accordance with the codes in effect at the time of construction but, regardless of when constructed, not less than as specified in table 704.1.

(2006 Code, sec. 34-34; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.015 Interior finishes, decorative materials and furnishings

Section 807 of the International Fire Code adopted in section 8.02.002 is amended as follows:

Section 807.4.3.2 and section 807.4.4.2; add an exception to read as follows:

Exception: Corridors protected by an approved automatic sprinkler system installed in accordance with section 903.3.1.1 shall be limited to 50 percent of the wall area.

(2006 Code, sec. 34-35; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.016 Fire protection systems

Section 901.5; amend by the addition of the following:

901.5 Installation acceptance testing. All required tests shall be conducted by and at the expense of the owner or his representative. The fire department shall not be held incurred in such test or responsible for any damages. Where it is required that the fire department witness any such test, such test shall be scheduled with a minimum of 48-hour notice to the fire chief or his representative.

Section 901.6; amend by the addition of the following:

901.6 Inspection, testing and maintenance. Non-required fire protection systems and equipment, once installed, shall be inspected, tested, and maintained according to applicable standards or removed.

Section 901.7; amend to read as follows:

901.7 Systems out of service. Where a required fire protection system is out of service or in the event of an excessive number of accidental activations, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, the building shall either be evacuated or an approved fire watch and/or standby personnel shall be provided at the expense of the building owner for all occupants left unprotected by the shut-down until the fire protection system has been returned to service.

Where utilized, standby personnel shall be provided with at least one approved means for notification of the fire department and their only duty shall be to perform constant patrols of the protected premises and keep watch for fires.

Section 902.1; amend by the addition of the following:

FIRE WATCH. A temporary measure intended to ensure continuous systematic surveillance of a building or portion thereof by one or more qualified individuals or standby personnel when required by the fire

code official, for the purposes of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the fire department.

STANDBY PERSONNEL. Qualified fire service personnel, approved by the fire chief. When utilized, the number required shall be as directed by the fire chief. Charges for utilization shall be in accordance with the adopted fee schedule. - See 403.1 amendment.

Section 902.1; under “Standpipe, Types of” definition, amend “manual dry” to read as follows:

Manual dry. A dry standpipe system that does not have a permanent water supply attached to the system. Manual dry standpipe systems require water from a fire department pumper to be pumped into the system through the fire department connection in order to supply the system demand. The system must be supervised as specified in section 905.2.

Section 903.2; delete the exception:

Exception: Spaces or areas in telecommunications building used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided those spaces or areas are equipped throughout with an automatic fire alarm system and are separated from the remainder of the building by fire barriers consisting of not less than 1-hour fire-resistance-rated walls and 2-hour fire-resistance-rated floor/ceiling assemblies.

Sections 903.2.1.1, 903.2.1.3, 903.2.1.4, 903.2.2, 903.2.3, 903.2.6, 903.2.8, and 903.2.8.1; change to read as follows:

903.2.1.1 Group A-1. An automatic sprinkler system shall be provided for Group A-1 occupancies where one of the following conditions exists:

1. The fire area exceeds 6,000 square feet (557.4 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.
4. The fire area contains a multi theater complex.

903.2.1.3 Group A-3. An automatic sprinkler system shall be [provided] for Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 6,000 square feet (557.4 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

903.2.1.4 Group A-4. An automatic sprinkler system shall be provided for Group A-1 [A-4] occupancies where one of the following conditions exists:

1. The fire area exceeds 6,000 square feet (557.4 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

903.2.2 Group E. An automatic sprinkler system shall be provided for Group E occupancies where one of the following conditions exists:

1. Throughout all Group E fire areas greater than 6,000 square feet (557.4 m²) in area;
2. Throughout every portion of educational building below the level of exit discharge.

903.2.3 Group F-1. An automatic sprinkler system shall be provided for Group F-1 occupancies where one of the following conditions exists:

1. Where a Group F-1 fire area exceeds 6,000 square feet (557.4 m²);
2. Where a Group F-1 fire area is located more than three stories above grade plane; or
3. Where combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).

903.2.6 Group M. An automatic sprinkler system shall be [provided] for Group M occupancies where one of the following conditions exists:

1. Where a Group M fire area exceeds 6,000 square feet (557.4 m²);
2. Where a Group M fire area is located more than three stories above grade plane; or
3. Where the combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).

903.2.8 Group S-1. An automatic sprinkler system shall be [provided] for Group S-1 occupancies where one of the following conditions exists:

1. A Group S-1 fire area exceeds 6,000 square feet (557.4 m²);
2. A Group S-1 fire area is located more than three stories above grade plane; or
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).

903.2.8.1 Repair garages. An automatic sprinkler system shall be [provided] for repair garages where one of the following conditions exists:

1. Buildings two or more stories in height, including basements, with a fire area containing a repair garage exceeding 6,000 square feet (557.4 m²);
2. One-story buildings with a fire area containing a repair garage exceeding 6,000 square feet (557.4 m²);
3. Buildings with a repair garage servicing vehicles parked in the basement.

Section 903.2.8.3; amend by the addition of the following:

903.2.8.3 Self-service storage facility. An automatic sprinkler system shall be installed throughout all self-service storage facilities. New self-service storage facilities constructed within the city and additions to existing self-service storage facilities shall install a protective screen at least eighteen (18) inches below the level of the sprinkler heads to restrict storage above that level. This screen shall be a mesh of not less than one (1) inch nor greater than six (6) inches in size. The screen and its supports shall be installed such that all elements are at least eighteen (18) inches below any sprinkler heads.

Section 903.2.10; amend to read as follows:

903.2.10 All occupancies except R-3 and U. An automatic sprinkler system shall be installed in the locations set forth in sections 903.2.10.1 through 903.2.10.8.

Exception: Group R-3 and Group U.

Section 903.2.10.3; change to read as follows:

903.2.10.3 Buildings more than 35 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level, other than penthouses in compliance with section 1509 of the International Building Code, that are located 35 feet (10,668 mm) or more above the lowest level of fire department vehicle access.

Exception: Open parking structures in compliance with section 406.3 of the International Building Code.

Section 903.2.10; add 903.2.10.4, 903.2.10.5, 903.2.10.6, 903.2.10.7, and 903.2.10.8 [sic] as follows:

903.2.10.4 High piled combustible storage. For any building with a clear height exceeding 12 feet (4,572 mm), see chapter 23 of the International Fire Code to determine if those provisions apply.

903.2.10.5 Spray booths and rooms. New and existing spray booths and spraying rooms shall be protected by an approved automatic fire-extinguishing system regardless of the size of the fire area.

903.2.10.6 Buildings over 6,000 square feet. An automatic sprinkler system shall be installed throughout all buildings over 6,000 square feet and greater, and in all existing buildings that are enlarged to be 6,000 square feet or greater, and in buildings greater than 6,000 square feet which are enlarged. For the purpose of this provision, firewalls shall not define separate buildings nor shall two buildings on the same lot built in accordance with section 704.3, unless the buildings are separated by a minimum distance of 10 feet.

Exceptions:

1. Open parking garages in compliance with section 406.3 of the International Building Code.
2. Type A-5 when constructed entirely of noncombustible, nonflammable materials.

903.2.10.7 Expanded tenant spaces. Fire sprinklers shall be installed in all tenant spaces where the total fire area exceeds 6,000 square feet. For the purpose of fire sprinklers, firewalls shall not be used to separate single tenant fire areas.

Section 903.3.1.1.1; change to read as follows:

903.3.1.1.1 Exempt locations. When approved by the code official, automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved automatic fire detection system in accordance with section 907.2 that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from any room merely because it is damp, of fire-resistance-rated construction or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.
2. Any room or space where sprinklers are considered undesirable because of the nature of the contents, when approved by the code official.

3. Generator and transformer rooms, under the direct control of a public utility, separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than 2 hours.

Section 903.3.1.2; amend to read as follows:

903.3.1.2 NFPA 13R sprinkler systems. Where allowed in buildings of Group R, up to and including four stories in height, automatic sprinklers shall be installed throughout in accordance with NFPA 13R. Sprinkler systems installed in accordance with 13R shall include sprinkler protection in combustible attics of buildings two (2) or more stories in height.

Section 903.3.1; amend by the addition of the following:

903.3.1.4 Installation. Automatic sprinkler and standpipe systems shall be installed with the following:

1. A single underground supply and point for the fire department connection (FDC) shall be provided for all buildings.
2. Fire department connections serving more than 500 GPM shall be provided with one 5-inch Storz connection and one 2-1/2 inch connection.
3. All inspectors' test, ball-drips, and main-drains shall be piped directly to the outside of the building.
4. At least one inspection test valve shall be located at the remote system area.
5. Risers shall be located in heated areas and shall not be located in an exterior wall. Risers located in a wall between a heated area and an unheated area (such as an attached garage or attic space) shall have its access panel facing the heated area.
6. Fire pumps shall be equipped with a properly sized test header.
7. Underground piping shall have a 10-foot minimum separation from all other utilities and placed in a separate trench. Underground piping within 5 feet of the building may be combined with other utilities for entrance to the building.
8. Porches and balconies shall be sprinklered on all Group R-2 and R-3 occupancies.
9. A minimum of 4 feet of pipe between the check valve and inside wall of the fire department connection.

Section 903.3.5; add a second paragraph to read as follows:

903.3.5 Water supplies. Water supply as required for such systems shall be provided in conformance with the supply requirements of the respective standards; however, every fire protection system shall be designed with a 10 psi safety factor.

Section 903.4; add a second paragraph after the exceptions to read as follows:

903.4 Sprinkler system monitoring and alarms. Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for a minimum of 45 seconds and not more than 90 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

Section 903.4.2; add a second and third paragraph to read as follows:

903.4.2 Alarms. The alarm device required on the exterior of the building shall be a weatherproof horn/strobe notification appliance with a minimum 75 candela strobe rating, installed as close as practicable to the fire department connection.

A water-powered alarm (water motor gong) shall be mounted on the exterior of the building as close as practical to the room in which the fire sprinkler riser is located.

Section 903.4.3; change to read as follows:

903.4.3 Floor control valves. Approved supervised indicating control valves shall be provided at the point of connection to the riser on each floor.

Sections 903.6.2 and 903.6.3; amend to read as follows:

903.6.2 Spray booths and rooms. New and existing spray booths and spray rooms shall be protected by an approved automatic fire-extinguishing system in accordance with section 1504 of the International Fire Code.

903.6.3 Existing occupancies. In occupancies where a fire has occurred and displaces one or more occupants, the affected building shall be fire-sprinkled prior to reoccupancy of the unit/building.

Section 905.2; change to read as follows:

905.2 Installation standards. Standpipe systems shall be installed in accordance with this section and NFPA 14. Manual dry standpipe systems shall be supervised with a minimum of 10 psig and a maximum of 40 psig air pressure with a high/low alarm.

Section 905.3.2; amend as follows:

Section 905.3.2 Group A; delete exceptions 1 and 2.

1. Open-air-seating spaces without enclosed spaces.
2. Class I automatic dry and semiautomatic dry standpipes or manual wet standpipes are allowed in buildings where the highest floor surface used for human occupancy is 75 feet (22,860 mm) or less above the lowest level of fire department vehicle access.

Section 905.4, item 5; change to read as follows:

905.4 Location of Class I standpipe hose connections.

5. Where the roof has a slope less than four units vertical in 12 units horizontal (33.3 percent slope), each standpipe shall be provided with a two-way hose connection located either on the roof or at the highest landing of stairways with stair access to the roof. An additional hose connection shall be provided at the top of the most hydraulically remote standpipe for testing purposes.

Section 905.4; add item 7 to read as follows:

905.4 Location of Class I standpipe hose connections.

7. Class I standpipes shall also be required on all occupancies in which the distance from accessible points for fire department ingress to any point in the structure exceeds two hundred fifty feet (250') along the route that a fire hose is laid as measured from the fire lane. When required by this

chapter, standpipe connections shall be placed adjacent to all required exits to the structure and at two hundred feet (200') intervals along major corridors thereafter.

Section 905.9; add a second paragraph after the exceptions to read as follows:

905.9 Valve supervision. Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for a minimum of 45 seconds and not more than 90 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

Section 906.1; amend to read as follows:

906.1 Where required. Portable fire extinguishers shall be installed in the following locations:

1. In Group A, B, E, F, H, I, M, R-1, R-2, R-4 AND S occupancies.
2. Within 30 feet (9,144 mm) of commercial equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with section 1415.1 of the International Fire Code.
5. Where required by the sections indicated in table 906.1.
6. Special-hazard areas, including but not limited to laboratories, computer rooms, and generator rooms where required by the code official.

Section 907.1.1; amend by the addition of the following:

907.1.1 Construction documents. Plans for fire alarm systems shall be in accordance with Murphy fire department fire alarm submittal guidelines.

Section 907.1; amend by the addition of the following:

907.1.3 Design standards. All alarm systems, new or replacement, serving 20 or more alarm-actuating devices shall be addressable fire detection systems. Alarm systems serving more than 40 smoke detectors or more than 100 total alarm-activating devices shall be analog intelligent addressable fire detection systems.

Exception: Existing systems need not comply unless the total building remodel or expansion initiated after January 1, 1998, as adopted, exceeds 30% of the building. When cumulative building remodel or expansion exceeds 50% of the building must comply within 18 months of permit application.

Section 907.2.1; amend to read as follows:

907.2.1 Group A. A manual fire alarm system shall be installed in Group A occupancies having an occupant load of 300 or more persons or more than 100 persons above or below the lowest level of exit discharge. Portions of Group E occupancies occupied for assembly purposes shall be provided with a fire alarm system as required for the Group E occupancy.

Section 907.2.3; change to read as follows:

907.2.3 Group E. A manual fire alarm system shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. An approved smoke detection system shall be installed in Group E day care occupancies. Where automatic fire sprinklers are not provided, a full-coverage smoke detection system shall be provided in all Group E occupancies. Unless separated by a minimum of 100 feet open space, all buildings, whether portable buildings or the main building, will be considered one building for alarm occupant load consideration and interconnection of alarm systems.

Section 907.2.3; amend to read as follows:

907.2.3; change exception 1 and add exception 1.1 to read as follows:

1. Group E educational and day care occupancies with an occupant load of less than 50 when provided with an approved automatic sprinkler system.
- 1.1 Residential in-home day care with not more than 12 children may use interconnected single station detectors in all habitable rooms. (For care of more than five children 2-1/2 or less years of age, see section 907.2.6.)

Section 907.2.6; amend by the addition of the following:

907.2.6.4 Group I-4 occupancies. An approved smoke detection system shall be installed in Group I-4 occupancies. Where automatic fire sprinklers are not provided, a full-coverage smoke detection system shall be provided in all Group I-4 occupancies.

Section 907.2.12; change to read as follows:

907.2.12 High-rise buildings. Buildings having floors used for human occupancy located more than 55 feet (16,764 mm) above the lowest level of fire department vehicle access shall be provided with an automatic fire alarm system and an emergency voice/alarm communication system in accordance with section 907.2.12.2.

Section 907.2.12, exception 3; change to read as follows:

3. Buildings with an occupancy in Group A-5 in accordance with section 303.1 of the International Building Code, when used for open air seating; however, this exception does not apply to accessory uses including but not limited to sky boxes, restaurants and similarly enclosed areas.

Section 907.4; amend by the addition of the following:

907.4.6 Manual alarm-actuating devices. Manual alarm-actuating devices shall be an approved double action type.

Section 907.6.1; add section to read as follows:

907.6.1 Installation. All fire alarm systems shall be installed in such a manner that a failure of any single initiating device or single open in an initiating circuit conductor will not interfere with the normal operation of other such devices. All initiating circuit conductors shall be Class "A" wired with a minimum of six feet separation between supply and return circuit conductors. IDC - Class "A" Style D; SLC - Class "A" Style 6; NAC - Class "B" Style Y. The IDC from an addressable device used to monitor the status of a suppression system may be wired Class B, Style B provided the distance from the addressable device is within 10 feet of the suppression system device.

Section 907.9.2; change to read as follows:

907.8.2 [907.9.2] High-rise buildings. In buildings that have floors located more than 55 feet (16,764 mm) above the lowest level of fire department vehicle access that are occupied for human occupancy, a separate zone by floor shall be provided for all of the following types of alarm-initiating devices where provided:

1. Smoke detectors.
2. Sprinkler water-flow devices.
3. Manual fire alarm boxes.
4. Other approved types of automatic detection devices or suppression systems.

Section 907.15; amend by the addition of the following:

907.15.1 Flow detectors and electronic monitoring. Sprinkler and standpipe system water flow detectors shall be provided for each floor zone to the sprinkler system and shall cause an alarm upon detection of water flow for a minimum of 45 seconds and not more than 90 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

Section 910.1; amend exception 2 to read as follows:

2. Where areas of buildings are equipped with early suppression fast-response (ESFR) sprinklers, only manual smoke and heat vents shall be required within these areas.

Section 910.2; amend by the addition of the following:

910.2.4 Group H. Buildings and portions thereof used as a Group H occupancy as follows:

1. In occupancies classified as Group H-2 or H-3, any of which are more than 15,000 square feet (1394 m²) in single floor area.

Exceptions:

1. Buildings of noncombustible construction containing only noncombustible materials.
2. In areas of buildings in Group H used for storing Class 2, 3 and 4 liquid and solid oxidizers, Class 1 and unclassified detonable organic peroxides, Class 3 and 4 unstable (reactive) materials, or Class 2 or 3 water-reactive materials as required for a high-hazard commodity classification.
3. Buildings of noncombustible construction containing only noncombustible materials.

Section 910.3; amend as follows:

910.3 Design and installation. Change the title of the first row of the table from “Group F-1 and S-1” to include “Group H” and to read as follows:

Group F-1, H, S-1

Table 910.3; change the title of the first row of the table to read as follows:

[F] TABLE 910.3
REQUIREMENTS FOR DRAFT CURTAINS AND SMOKE AND HEAT VENTS^a

Occupancy Group and Commodity Classification	Designated Storage Height (feet)	Minimum Draft Curtain Depth (feet)	Maximum Area Formed by Draft Curtains (square feet)	Vent-Area-to-Floor-Area Ratio ^c	Maximum Spacing of Vent Centers (feet)	Maximum Distance to Vents From Wall or Draft Curtains ^b (feet)
Group F-1, H and S-1	–	0.2 x Hd but > 4	50,000	1:100	120	60

(Balance of table remains unchanged)

Section 910.3.2.2; amend by the addition of the following:

910.3.2.2 Sprinklered buildings. Where installed in buildings equipped with an approved automatic sprinkler system, smoke and heat vents shall operate automatically. The automatic operating mechanism of the smoke and heat vents shall operate at a temperature rating at least 100° (38°C) greater than the temperature rating of the sprinklers installed.

Section 913.1; add paragraph to read as follows:

913.1 General. When located on the ground level, the fire pump room shall be provided with an exterior fire department access door that is not less than 3 ft. in width and 6 ft. in height, regardless of any interior doors that are provided. A key box shall be provided at this door, as required by section 506.1 of the 2006 IFC.

Exception: When it is necessary to locate the fire pump room on other levels or not at an exterior wall, the corridor leading to the fire pump room access from the exterior of the building shall be provided with equivalent fire resistance as that required for the pump room, or as approved by the fire code official. Access keys shall be provided in the key box as required by section 506.1.

Section 913.4; add a second paragraph to read as follows:

The fire-pump system shall also be supervised for “loss of power,” and “phase reversal” on supervisory circuits, and “pump running” as an alarm condition and shall report individually to the monitoring station.

Section 1008.1.3.4; add criteria #7 as follows:

7. If a full building smoke detection system is not provided, approved smoke detectors shall be provided on both the access and egress sides of doors and in a location approved by the authority having jurisdiction of NFPA 72. Actuation of a smoke detector shall automatically unlock the door.

(2006 Code, sec. 34-36; Ordinance 09-03-789, sec. 2, adopted 3/16/09; Ordinance adopting 2015 Code)

Sec. 8.02.017 Means of egress

Section 1017.1; add an exception #5 to read as follows:

5. In Group B office buildings, corridor walls and ceilings need not be of fire-resistive construction within office spaces of a single tenant when the space is equipped with an approved automatic fire alarm system with corridor smoke detection. The actuation of any detector shall activate alarms audible in all areas served by the corridor. The smoke-detection system shall be connected to the building's fire alarm system where such a system is provided.

Section 1020.1.7; change to read as follows:

1020.1.7 Smokeproof enclosures. In buildings required to comply with section 403 or 405 of the IBC, each of the exits of a building that serves stories where any floor surface is located more than 75 feet (22,860 mm) above the lowest level of fire ... {remainder of section unchanged}

Section 1028.2; change to read as follows:

1028.2 Reliability. Required exit accesses, exits or exit discharges shall be continuously maintained free from obstructions or impediments to full instant use in the case of fire or other emergency. Security devices affecting means of egress shall be subject to approval of the fire code official.

(2006 Code, sec. 34-37; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.018 Flammable finishes

Section 1504.4; change to read as follows:

1504.4 Fire protection. New and existing spray booths and spray rooms shall be protected by an approved automatic fire-extinguishing system ... {remainder of section unchanged}

(2006 Code, sec. 34-38; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.019 Repair garages

Section 2204.1; change to read as follows:

2204.1 Supervision of dispensing. The dispensing of fuel at motor fuel-dispensing facilities shall be the following:

1. Conducted by a qualified attendant; and/or
2. Shall be under the supervision of a qualified attendant; and/or
3. Shall be an unattended self-service facility in accordance with section 2204.3.

At any time the qualified attendant of item #1 or #2 above is not present, such operations shall be considered as an unattended self-service facility and shall also comply with section 2204.3.

(2006 Code, sec. 34-39; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.020 High-piled storage

Section 2302; add a second paragraph to the definition of “High-Piled Combustible Storage” to read as follows:

Any building exceeding 6,000 sq. ft. that has a clear height in excess of 12 feet, making it possible to be used for storage in excess of 12 feet, shall be considered to be high-piled storage and shall comply with the provisions of this section. When a specific product cannot be identified, a fire protection system shall be installed as for Class IV commodities, to the maximum pile height.

Table 2306.2; replace text of “footnote j” to read as follows:

- j. Where areas of buildings are equipped with early suppression fast-response (ESFR) sprinklers, only manual smoke and heat vents shall be required within these areas.

(2006 Code, sec. 34-40; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.021 Fireworks

Section 3301.1; add the following to the first paragraph:

The presence or use of fireworks within the jurisdiction of the city is in violation of this subchapter and is hereby declared to be a common and public nuisance. The restrictions of this section shall be applicable and in force throughout the city.

Section 3301.1.3; change to read as follows:

3301.1.3 Fireworks. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited.

Exceptions:

1. Only when approved for fireworks displays, storage and handling of fireworks as allowed in section 3304 and 3308.
2. The use of fireworks for approved display as allowed in section 3308.

Section 3302; change the definition of “fireworks” to read as follows:

FIREWORKS. Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration, detonation, and/or activated by ignition with a match or other heat producing device that meets the definition of 1.4G fireworks or 1.3G fireworks as set forth herein.

Sections 3308.12 and 3308.13; add to section 3308 as follows:

3308.12 Ignition. Aerial shells shall be ignited by lighting the tips of fuses by an electrical ignition source except when manual ignition is approved by the fire chief. Operators shall not place any part of their bodies over the throat of the mortar.

3308.13 Marking of shells. Each aerial shell shall have printed directly on its outer casing the following minimum warning in 1/8-inch high letters which contrast to the background:

WARNING
EXPLOSIVES
CLASS “C” FIREWORK
DO NOT HANDLE - CALL “9-1-1”

(2006 Code, sec. 34-41; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

State law references—State regulation of 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.

Sec. 8.02.022 Sale of fireworks

The city council hereby declares the sale of fireworks unlawful and prohibits the sale of fireworks within the corporate city limits. (2006 Code, sec. 34-42; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.023 Possession and discharge of fireworks; permit requirements

The city council hereby declares the possession of fireworks or discharge of fireworks within the city to be unlawful except where a special permit has been issued by the city council and approved by the city fire marshal. (2006 Code, sec. 34-43; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.024 Flammable and combustible liquids

Section 3403.6; amend to add the following sentence:

An approved method of secondary containment shall be provided for underground tank and piping systems.

Section 3404.2.7.1; amend by the addition of the following:

Secondary containment shall be provided for all above-ground and underground storage tanks (UST) and product lines in the form of double wall tanks and piping. Alternate methods of secondary containment may be used if approved by the chief.

Section 3404.2.9.5.1; amend to read as follows:

3404.2.9.5.1 Locations where above-ground tanks are prohibited. The storage of flammable or combustible liquids in outside above-ground tanks is prohibited within each and every zoning district within the city with the exception of those districts which are zoned for industrial use. Installation of above-ground tanks in industrial districts shall be permitted at the discretion of the fire chief following his review of the proposed installation location and the fire protection for the storage area. When used in conjunction with chapter 22, above-ground storage will be allowed at the discretion of the fire chief. Tanks shall not be located within 100 feet of the property line of any Group E, I, or R occupancies.

Section 3404.2.11.5; amend to add the following sentence:

An approved method of secondary containment shall be provided for underground tank and piping systems.

Section 3404.2.11.5.2; amend to read as follows:

3404.2.11.5.2 Leak detection. Underground storage tank systems ... {bulk of provision unchanged} ... and installed in accordance with NFPA 30 and as specified in section 3404.2.11.5.3.

Section 3404.2.11.5.3; add section to read as follows:

3404.2.11.5.3 Dry sumps. Approved sampling tubes of a minimum six inches in diameter shall be installed in the backfill material of each underground flammable or combustible liquid storage tank. The tubes shall extend from a point 12 inches below the average grade of the excavation to ground level and shall be provided with suitable surface access caps. Each tank site shall provide a sampling sump at the corners of the excavation with a minimum of four sumps. Sampling tubes shall be placed in the product line excavation within ten feet of the tank excavation and one every 50 feet routed along product lines towards the dispensers; a minimum of two are required.

Sections 3406.5.4.5 and 3406.5.4.5.1 through 4306.5.4.3; amend and add sections as follows:

3406.5.4.5 Commercial, industrial, governmental or manufacturing. Dispensing of Class II and Class III motor vehicle fuel from tank vehicles into the fuel tanks of motor vehicles located at commercial,

industrial, governmental or manufacturing establishments is allowed where permitted, provided such dispensing operations are conducted in accordance with sections 3406.5.4.5.1 through 3406.5.4.5.3.

3406.5.4.5.1 Site requirements.

1. Dispensing may occur at sites that have been permitted to conduct mobile fueling.
2. A detailed site plan shall be submitted with each application for a permit. The site plan must indicate:
 - a. All buildings, structures, and appurtenances on site and their use or function;
 - b. All uses adjacent to the property lines of the site;
 - c. The locations of all storm drain openings, adjacent waterways or wetlands;
 - d. Information regarding slope, natural drainage, curbing, impounding and how a spill will be retained upon the site property; and
 - e. The scale of the site plan.
3. The code official is authorized to impose limits upon: the times and/or days during which mobile fueling operations are allowed to take place, and specific locations on a site where fueling is permitted.
4. Mobile fueling operations shall be conducted in areas not generally accessible to the public.
5. Mobile fueling shall not take place within 15 feet (4.572m) of buildings, property lines, or combustible storage.

3406.5.4.5.2 Refueling operator requirements.

1. The owner of mobile fueling operations shall provide to the jurisdiction a written response plan which demonstrates readiness to respond to a fuel spill, carry out appropriate mitigation measures, and to indicate its process to properly dispose of contaminated materials when circumstances require.
2. The tank vehicle shall comply with the requirements of NFPA 385 and local, state and federal requirements. The tank vehicle's specific functions shall include that of supplying fuel to motor vehicle fuel tanks. The vehicle and all its equipment shall be maintained in good repair.
3. Signs prohibiting smoking or open flames within 25 feet (7.62m) of the tank vehicle or the point of fueling shall be prominently posted on three sides of the vehicle including the back and both sides.
4. A fire extinguisher with a minimum rating of 40:BC shall be provided on the vehicle with signage clearly indicating its location.
5. The dispensing nozzles and hoses shall be of an approved and listed type.
6. The dispensing hose shall not be extended from the reel more than 100 feet (30.48m) in length.

7. Absorbent materials, non-water-absorbent pads, a ten-foot (3.048m) long containment boom, an approved container with lid, and a nonmetallic shovel shall be provided to mitigate a minimum five-gallon fuel spill.
8. Tanker vehicles shall be equipped with a fuel limit switch such as a count-back switch, limiting the amount of a single fueling operation to a maximum of 500 gallons (1,893L) between resettings of the limit switch.
 - a. Exception: Tankers utilizing remote emergency shut-off device capability where the operator constantly carries the shut-off device which, when activated, immediately causes flow of fuel from the tanker to cease.
9. Persons responsible for dispensing operations shall be trained in the appropriate mitigating actions in the event of a fire, leak, or spill. Training records shall be maintained by the dispensing company and shall be made available to the code official upon request.
10. Operators of tank vehicles used for mobile fueling operations shall have in their possession at all times an emergency communications device to notify the proper authorities in the event of an emergency.

3406.5.4.5.3 Operational requirements.

1. The tank vehicle dispensing equipment shall be constantly attended and operated only by designated personnel who are trained to handle and dispense motor fuels.
2. Prior to beginning dispensing operations, precautions shall be taken to assure ignition sources are not present.
3. The engines of vehicles being fueled shall be shut off during dispensing operations.
4. Nighttime fueling operations shall only take place in adequately lighted areas.
5. The tank vehicle shall be positioned with respect to vehicles being fueled so as to preclude traffic from driving over the deliver hose and between the tank vehicle and the motor vehicle being fueled.
6. During fueling operations, tank vehicle brakes shall be set, chock blocks shall be in place and warning lights shall be in operation.
7. Motor vehicle fuel tanks shall not be topped off.
8. The dispensing hose shall be properly placed on an approved reel or in an approved compartment prior to moving the tank vehicle.
9. The code official and other appropriate authorities shall be notified when a reportable spill or unauthorized discharge occurs.

(2006 Code, sec. 34-44; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.025 Liquefied petroleum gases (LP-gas)

Section 3803.2.1.8; add section as follows:

3803.2.1.8 Jewelry repair, dental labs, and similar occupancies. Where natural gas service is not available, portable LP-gas containers are allowed to be used to supply approved torch assemblies or similar

appliances. Such containers shall not exceed 20-pound (9.0kg) water capacity. Each device shall be separated from other containers by a distance of not less than 20 feet.

Section 3804.2; amend by the addition of the following sentence and exception:

Tanks shall not be located within 100 feet of the property line of any Group E, I or R occupancies.

Exception: Except as permitted in 308.3 and 3804.3.2, LP-gas containers are not allowed in residential areas.

Section 3804.3.2; add section as follows:

3804.3.2 Spas and pool heaters. Where natural gas service is not available, LP-gas containers are allowed to be used to supply spa and pool heaters. Such containers shall not exceed 250-gallon water capacity. See table 3804.3 for location of containers.

(2006 Code, sec. 34-45; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

State law reference—Liquefied petroleum gas code, V.T.C.A., Natural Resources Code, sec. 113.001 et seq.

Sec. 8.02.026 Arson reward

The city hereby offers a reward fund of up to \$1,000.00 for the arrest and conviction of any person found guilty of committing the crime of arson within the corporate limits of the city. This reward fund is a standing offer, and shall be paid out of the general fund of the city. (2006 Code, sec. 34-46; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

State law reference—Arson, V.T.C.A., Penal Code, sec. 28.02.

Sec. 8.02.027 Authority to file suit for injunctive relief

Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city, the fire chief or his authorized representative, or both for injunctive relief as may be necessary to enforce the provisions of this article. (2006 Code, sec. 34-47; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

Sec. 8.02.028 Interference with fire department

(a) Interference with vehicle or equipment. It shall be unlawful for any person to maliciously interfere or meddle with any vehicle, hose, ladder or other equipment of any kind belonging to the city and used by the fire department.

(b) Driving over fire hose. No driver of any vehicle shall drive over an unprotected hose of a fire department when laid down on any street or private driveway to be used at any fire, alarm of fire, or training for fire suppression without the consent of the fire department official in command.

(c) Following responding vehicle. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where the fire apparatus has stopped to answer a fire alarm.

(2006 Code, sec. 34-48; Ordinance 09-03-789, sec. 2, adopted 3/16/09)

State law references—Parking in block where fire apparatus has stopped to answer fire alarm, V.T.C.A., Transportation Code, sec. 545.407; crossing fire hose, V.T.C.A., Transportation Code, sec. 545.408.

CHAPTER 9

RESERVED

CHAPTER 10

HEALTH AND SANITATION

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ARTICLE 10.01 GENERAL PROVISIONS***(Reserved)****ARTICLE 10.02 EMERGENCY MEDICAL SERVICES†****Sec. 10.02.001 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:

Emergency medical services. Has the meaning as defined in V.T.C.A., Health and Safety Code, section 773.003, as may be amended.

Emergency medical services provider. Has the meaning as defined in V.T.C.A., Health and Safety Code, section 773.003, as may be amended.

Emergency medical services run. The trip made by the emergency medical services vehicle to the place where the emergency medical services are rendered, or from the place where the emergency medical services are rendered to a hospital or other appropriate destination for the patient.

Emergency medical services vehicle. Has the meaning as defined in V.T.C.A., Health and Safety Code, section 773.003, as may be amended.

Fire department. The fire prevention and protection department for the city.

Licensed emergency medical services provider. Emergency medical services provider licensed by the state department of state health services, or its successor agency, under V.T.C.A., Health and Safety Code chapter 773 to perform either emergency medical services or non-emergency transfer services.

Non-emergency transfer service provider. A provider performing non-emergency transfer services.

Non-emergency transfer services. Any circumstance in which a patient is transported by a licensed emergency medical services provider using an emergency medical services vehicle under circumstances which are or have been represented to be of a non-emergency nature.

(2006 Code, sec. 35-1; Ordinance 11-12-903, sec. 2, adopted 12/6/11; Ordinance 12-04-912, sec. 2, adopted 4/17/12; Ordinance 14-04-974, sec. 2, adopted 4/1/14)

Sec. 10.02.002 Provider of services; equipment held by the city

(a) **Provider of services.** The fire department of the city shall be the sole provider of emergency medical services within the city, except for other emergency medical service providers requested by the fire department to perform emergency medical services during times of multiple emergency medical services needs. The fire department shall not be obligated to provide non-emergency transfer services.

(b) **Equipment held by the city.** The equipment held by the city to perform emergency medical services shall be utilized for emergency medical services for persons requesting or utilizing such service, and such emergency medical services shall be under the immediate supervision of the chief of the fire department, and such

* **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.

† **State law references**—Emergency medical services, V.T.C.A., Health and Safety Code, ch. 773; local provision of emergency medical services, V.T.C.A., Health and Safety Code, ch. 774.

equipment shall be maintained at a location under the direction of the chief of the fire department, subject to approval of the city manager.

(2006 Code, sec. 35-2; Ordinance 11-12-903, sec. 2, adopted 12/6/11; Ordinance 12-04-912, sec. 2, adopted 4/17/12; Ordinance 14-04-974, sec. 2, adopted 4/1/14)

Sec. 10.02.003 Service fees imposed

Any person using the fire department for emergency medical services shall pay for such services, including, without limitation, a base fee, a supplies fee, plus a mileage charge for certain types of transportation, as determined from time to time by the city council in accordance with the city fee ordinance (appendix A, section A6.001). (2006 Code, sec. 35-3; Ordinance 11-12-903, sec. 2, adopted 12/6/11; Ordinance 12-04-912, sec. 2, adopted 4/17/12; Ordinance 14-04-974, sec. 2, adopted 4/1/14)

Sec. 10.02.004 Liability for payment of service fees

The person receiving emergency medical services and any person contracting for emergency medical services shall be responsible for payment of the fees. In the case of services received by a minor, the parent or guardian of the minor shall be responsible for payment of the fees. The fire department shall invoice the person receiving emergency medical services and/or the person responsible for the fees and payment shall be made no later than thirty (30) days thereafter. (2006 Code, sec. 35-4; Ordinance 11-12-903, sec. 2, adopted 12/6/11; Ordinance 12-04-912, sec. 2, adopted 4/17/12; Ordinance 14-04-974, sec. 2, adopted 4/1/14)

Sec. 10.02.005 Availability of emergency medical services

Emergency medical services shall be, and by the terms of this article are, available to all persons who live, work or visit within the corporate limits of the city provided such emergency medical services arise within the corporate limits of the city, to persons residing within the corporate limits of other towns or municipalities within the county when provided for by contract, to other persons residing within the county when provided for by contract, and to persons not residing within the county when provided for by contract. (2006 Code, sec. 35-5; Ordinance 11-12-903, sec. 2, adopted 12/6/11; Ordinance 12-04-912, sec. 2, adopted 4/17/12; Ordinance 14-04-974, sec. 2, adopted 4/1/14)

Sec. 10.02.006 Duty to transport

(a) The fire department shall transport the injured or sick to a medical facility of the person's choice provided the medical facility is equipped to handle that type of medical emergency (i.e., is an appropriate facility) and the person's choice is among the facilities listed below:

Medical Center of Plano
 Methodist Richardson Medical Center, Campbell
 Methodist Richardson Medical Center, Renner
 Baylor, Garland
 Baylor Heart Hospital
 Baylor, Plano
 Parkland, Dallas
 Medical City of Dallas
 Children's Medical Center, Dallas
 Legacy Children's Hospital.

(b) It shall be the discretion of the paramedic to utilize other emergency medical transportation when appropriate for the situation (i.e. helicopter, private ambulance, etc.) or to transport the patient to facilities other than requested when other factors, such as estimated transport time, access to facility, and suitability of facility to treat patient, necessitate that another facility be utilized. Facilities not listed above may be utilized for medical necessity after first consulting with the online medical control physician. No person shall be denied transport to a medical facility for medical care. The fire department shall not have a duty to transport persons who do not need

emergency medical services but instead only desire to use non-emergency transfer services. Any person requesting non-emergency transfer services may arrange for private transportation or use a non-emergency transfer services provider.

(2006 Code, sec. 35-6; Ordinance 11-12-903, sec. 2, adopted 12/6/11; Ordinance 12-04-912, sec. 2, adopted 4/17/12; Ordinance 14-04-974, sec. 2, adopted 4/1/14)

Sec. 10.02.007 Private emergency medical services

(a) It shall be unlawful for any person, either as owner, agent or otherwise, other than a member of the fire department or an agency of the United States, or duly appointed representative of the city, to furnish, operate, conduct, maintain, advertise or otherwise be engaged in or profess to be engaged in the operation of emergency medical services, upon the streets, alleys, or any public way or place within the city, for the purpose of picking up patients within the city, except in the following circumstances:

- (1) It shall not be unlawful for a person operating as a non-emergency transfer services provider in the city, upon responding to a direct call for non-emergency transfer services, to operate such emergency medical services vehicle under emergency conditions, using emergency equipment, after notifying the fire alarm dispatcher when a determination is made by the non-emergency transfer service providers' attendants that an emergency exists requiring the sick or injured person to be transported with all practical speed to a hospital.
- (2) It shall not be unlawful for any person operating as a non-emergency transfer services provider in the city, who is performing the service of maintaining an emergency medical services vehicle at a particular location for a sporting or community activity event, to operate such emergency medical services vehicle under emergency conditions, using emergency equipment, after notifying the fire alarm dispatcher when a determination is made by the non-emergency transfer service providers' attendants that an emergency exists requiring the sick or injured person to be transported with all practical speed to a hospital.
- (3) It shall not be unlawful for any person to operate an emergency medical services vehicle within the city, if the place of emergency at which the sick or injured person was picked up by such emergency medical services provider is outside the corporate limits of the city, and the emergency medical services provider making the emergency medical services run is a licensed emergency medical services provider.
- (4) It shall not be unlawful for any person to operate an emergency medical services vehicle in the city on an emergency medical services run when fire department emergency medical service vehicles are not available, and the fire alarm dispatcher requests such service from the provider.

(b) Any person operating as a non-emergency transfer service provider in the city who makes an emergency medical services run under the provisions of subsection (a)(1) or (a)(2) of this section shall, if requested in writing by the fire department, within ten days of each such emergency medical services run, submit to the chief of the fire department a report which shall describe the circumstances requiring the emergency medical services run.

(c) In the event that a patient dies while being transported from one place within the city to another place within or beyond its limits, the emergency medical services provider shall:

- (1) Immediately notify the fire department of such death, by two-way radio or public telephone; and

- (2) Within two hours, file a written report with the fire chief upon such forms as they may provide or prescribe, giving all information therein required and any other relevant information which the fire chief may require.

(2006 Code, sec. 35-7; Ordinance 11-12-903, sec. 2, adopted 12/6/11; Ordinance 12-04-912, sec. 2, adopted 4/17/12; Ordinance 14-04-974, sec. 2, adopted 4/1/14)

Sec. 10.02.008 Non-emergency transfer service providers

Nothing in this article regulates the provision of non-emergency transfer service providers in the city, except as expressly referenced herein. (2006 Code, sec. 35-8; Ordinance 11-12-903, sec. 2, adopted 12/6/11; Ordinance 12-04-912, sec. 2, adopted 4/17/12; Ordinance 14-04-974, sec. 2, adopted 4/1/14)

ARTICLE 10.03 SMOKING AND TOBACCO PRODUCTS*

Sec. 10.03.001 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:

Air barrier system. A system that creates an air curtain to prevent drift or penetration of tobacco smoke from a smoking area to a nonsmoking area not allowing drift or penetration from the ceiling down to 24 inches above the floor.

Air purification system. An electrically powered hospital grade filter that will clean all of the air in the designated smoking area every 15 minutes as follows: Not less than 95 percent of 0.3 micron particulates efficiency including dust, smoke, pollen, mold spores, bacteria, tobacco smoke, viruses and allergens and not less than 95 percent removal of gases, vapors, volatile organic compounds (VOC) and odors.

Designated smoking area. An area which shall not exceed 50 percent of the net floor area and is equipped with an air purification system or a separate ventilation system and having a physical barrier system between it and the nonsmoking area.

Director of health. The director of the department designated by the city manager or his designee to enforce and administer this article.

Electronic cigarette or e-cigarette. A battery-powered product that uses an atomizer or similar device that allows users to inhale nicotine vapor or other vapor without fire, smoke, ash, or carbon monoxide. The definition of e-cigarette includes any of its component parts.

Enclosed area. All space between a floor and ceiling which is enclosed on all sides by walls or windows, exclusive of doors or passageways, which extend from the floor to the ceiling.

Food product establishment. Any restaurant, coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria or eating establishment, and any other eating establishment, organization, club, boardinghouse, or guesthouse, which gives or offers for sale food to the public, guests, patrons or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities. Other food product establishments include grocery stores and food markets, not including those outdoors.

* **State law references**—Smoking tobacco in certain public places or conveyances, V.T.C.A., Penal Code, sec. 48.01; distribution of cigarettes or tobacco products, V.T.C.A., Health and Safety Code, sec. 161.081 et seq.; tobacco use by minors, V.T.C.A., Health and Safety Code, sec. 161.251 et seq..

Net floor area. The floor area of the interior of the establishment normally utilized and accessible by patrons and/or the general public, and as determined by the city building official pursuant to the city building code.

Patio. An improved and defined unenclosed outside area associated with a food service establishment or bar used for purposes of dining or entertainment, provided that walkways are not considered patios.

Physical barrier. A barrier that will form an effective membrane continuous from outside wall to outside wall, from a smoke barrier to a smoke barrier, from floor to floor or roof above, or a combination thereof, including continuity through all concealed spaces such as above suspended ceilings and interstitial structural and mechanical spaces. Transfer grilles, louvers and similar openings shall not be used in these partitions. Self-closing, tightfitting doors are permitted in such barriers.

Private club. Any building, premises or portion thereof which is permitted by the state and allowed by special use permit by the city as a private club for the storing, possession and dispensing for on-premises consumption of alcoholic beverages. The term “private club” does not include premises operated by an organization which is not available to and not customarily used by the general public and entry and privileges thereto are established by regulations of that organization distinct from a Texas Alcohol and Beverage [Alcoholic Beverage Code] private club membership.

Public area. Any enclosed indoor area that is open to or is used by the general public, and includes but is not limited to retail stores, offices, professional, commercial or financial establishments, restaurants, public and private institutions of education, health care facilities, nursing and convalescent homes, residential treatment facilities, and buildings owned or occupied by political subdivisions.

Retail and service establishment. Any establishment which sells goods or services to the general public.

Retail tobacco store. A retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Service line. An indoor line or area where persons await service of any kind, regardless of whether or not such service involves exchange of money. Such service shall include, but is not limited to, sales, giving of information, directions or advice, and transfers of money or goods.

Smoke or smoking. The carrying or holding of a pipe, cigar or cigarette of any kind which is burning, or the igniting of a pipe, cigar or cigarette of any kind which is burning.

Ventilation system. A HVAC system designed by a licensed professional engineer to meet the requirements of this article and meeting all the other requirements of the city mechanical code.

(1993 Code, sec. 92.01; 2006 Code, sec. 30-21; Ordinance 99-05-453, sec. 1, adopted 5/3/99; Ordinance 11-10-896, sec. 2, adopted 9/6/11; Ordinance 13-11-963, sec. 2, adopted 11/19/13; Ordinance adopting 2015 Code)

Sec. 10.03.002 Penalty

Any person, firm, or corporation violating any of the provisions or terms of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not to exceed \$2,000.00 for each offense, and each and every violation or day such violation shall continue or exist shall be deemed a separate offense. (2006 Code, sec. 30-32; Ordinance 10-04-835, sec. 4, adopted 4/5/10; Ordinance adopting 2015 Code)

Sec. 10.03.003 No commingling of air; testing requirements

It is the intent of this article to define distinct and separate areas for smoking and nonsmoking use to assure a smoke-free atmosphere in nonsmoking areas and prohibit the commingling of air between such areas. All air purification systems, air barrier systems, and air ventilation systems shall be tested and such test shall be observed by the city at the time of installation and at least every six months thereafter to ensure compliance with this article. (1993 Code, sec. 92.02; 2006 Code, sec. 30-22; Ordinance 99-05-453, sec. 2, adopted 5/3/99)

Sec. 10.03.004 Smoking prohibited in certain public areas

(a) A person commits an offense if he smokes or possesses a burning tobacco, weed or other plant product in the following indoor or enclosed areas:

- (1) A public or private preschool, primary or secondary school;
- (2) Elevators, museums, libraries, galleries, public transportation facilities open to the public and service lines of establishments doing business with the general public;
- (3) Hearing rooms, conference rooms, meeting rooms or any public service area of any facility owned, operated or managed by the city in which public business is conducted, when the public business requires or provides an opportunity for direct participation or observation by the general public;
- (4) Any building which is used or designated for the purpose of exhibiting any motion picture, stage drama, lecture, musical recital, athletic event, or any other event whenever open to the public, except smoking which is a part of a stage performance, including all restrooms and any area commonly referred to as a lobby;
- (5) Any retail or service establishment serving the general public, including, but not limited to, any food products establishment, department store, restaurant, grocery store, private club, bingo parlor, bowling center, drugstore, shopping mall, or hair styling salon, including service lines;
- (6) All restrooms open for public use;
- (7) All areas in a laundromat open to and available to use by the public;
- (8) Within all areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including, but not limited to, commercial, financial and professional offices, including banks, hotels, and motels; or
- (9) On any patio within 15 linear feet of any door, operable window or other opening to an indoor enclosed area of any facility where smoking is prohibited that is not equipped with an air curtain system.

(b) Notwithstanding any other provision of this article, any owner, operator, manager, or other person who controls any establishment or facility described in this article may declare that entire establishment or facility as a nonsmoking establishment.

(c) It shall be a defense to prosecution under this article that the public place in which the offense takes place does not have prominently displayed a conspicuous notice that smoking is prohibited and that an offense is punishable by a fine not to exceed \$2,000.00.

(1993 Code, sec. 92.03; 2006 Code, sec. 30-23; Ordinance 99-05-453, sec. 3, adopted 5/3/99; Ordinance 11-10-896, sec. 3, adopted 9/6/11)

Sec. 10.03.005 Hospitals and health care facilities

A person commits an offense if he smokes or possesses a burning tobacco, weed or other plant product in any public area of a health care facility or hospital, including, but not limited to, clinics, physical therapy facilities, doctors' offices, nursing and convalescent homes, residential treatment centers/homes, and dentists' offices. In bed space areas of health facilities, smoking shall be prohibited unless all patients within the room are smokers and such smoking is ordered on the health care facility's admission form by an attending physician, in keeping with the guidelines established by the facility. Separate ventilation exhaust may be required by the director of

health to accommodate such orders. (1993 Code, sec. 92.04; 2006 Code, sec. 30-24; Ordinance 99-05-453, sec. 4, adopted 5/3/99)

Sec. 10.03.006 Posting of signs

The owner or person in charge of a facility in which smoking is regulated shall post signs which designate smoking or no smoking areas established by this article. The manner of such posting shall be at the discretion of the owner, operator, manager or other person having control of such room, building or other place so long as the signs are conspicuous and state that smoking is prohibited and that an offense is punishable by fine not to exceed \$2,000.00. (1993 Code, sec. 92.05; 2006 Code, sec. 30-25; Ordinance 99-05-453, sec. 5, adopted 5/3/99)

Sec. 10.03.007 Compliance

(a) The building official of the city shall provide each applicant seeking a certificate of occupancy with a copy of this article and each applicant shall comply with the provisions of this article.

(b) The owner, operator or manager of any facility, business or agency within the purview of this article shall comply with the provisions of this article.

(c) The director of health or his designee may enforce this article by any of the following actions:

- (1) Serving notice requiring the correction of any violation of this article;
- (2) Requesting the city attorney to maintain an action for injunction to enforce the provisions of this article to cause the correction of any such violation, and for assessment and recovery of a civil penalty of such violation, including attorney's fees; or
- (3) Issuance of a municipal court citation.

The remedies contained herein are cumulative and in addition to any other remedies that are available at law or in equity.

(d) In undertaking the enforcement of this article, the city is assuming an undertaking only to promote the general welfare of its citizens. It is not assuming any duty or obligation, nor is it imposing any duty or obligation on its officers and employees, nor is it liable in money damages or otherwise to any person who claims that the city or one of its officers or employees breached any such obligation, and the breach proximately caused injury.

(1993 Code, sec. 92.06; 2006 Code, sec. 30-26; Ordinance 99-05-453, sec. 6, adopted 5/3/99)

Sec. 10.03.008 Where smoking is not prohibited

Notwithstanding any other provisions of this article to the contrary, smoking is not prohibited in the following areas:

- (1) Private residences, except when used as a licensed child care or health care facility;
- (2) Hotel and motel rooms rented to guests;
- (3) Retail tobacco stores;
- (4) Any area exterior to the building in which the establishment or facility is located, except as otherwise regulated in this article;
- (5) Any enclosed rooms in an establishment or facility which are being used entirely for private parties, events or other social functions;

- (6) Enclosed areas of an employer that are not available to or customarily used by the general public;
- (7) In the designated smoking areas of any food products, retail or service establishment serving the general public which has provided a designated smoking area equipped with a functional air purification system or functional separate ventilation system. Such systems shall have a negative pressure on the area designated for smoking to prevent air from a smoking area to be drawn across or into the nonsmoking area. All ventilation systems shall provide a total air exchange every 15 minutes and shall exhaust that air to the exterior of the building. A sign must be posted on the premises in a conspicuous place to advise the public that smoking is permitted in the designated smoking area. Designated smoking areas shall not include restrooms, service lines, public telephone areas, and other areas commonly used by all patrons, including access thereto (called "common areas") in new establishments making application for a building permit for new construction after the effective date of the ordinance from this article is derived. Establishments existing or with building permits pending on the effective date of the ordinance from which this article is derived shall comply with the common areas requirements to the extent structurally feasible as is reasonably determined by the proprietor of the establishment; or
- (8) Patios.

(1993 Code, sec. 92.07; 2006 Code, sec. 30-27; Ordinance 99-05-453, sec. 8, adopted 5/3/99; Ordinance 10-04-835, sec. 2, adopted 4/5/10; Ordinance 11-10-896, sec. 4, adopted 9/6/11)

Sec. 10.03.009 Air circulation and ventilation

- (a) Any food product establishment or retail and service establishment currently existing or that has a building permit pending as of the effective date of this section which has an openable door or window separating a nonsmoking area from an outdoor seating or patio smoking area shall be equipped with an air curtain system that provides for sufficient air circulation to reduce the commingling of smoke-filled air into nonsmoking areas.
- (b) Any food product establishment or retail and service establishment making application for a building permit for construction after the effective date of this section which has an openable door or window separating a nonsmoking area from an outdoor seating or patio smoking area shall be equipped with a functional air purification system or functional separate ventilation system. Such ventilation system shall prevent air from a smoking area to be drawn across or into the nonsmoking area, shall exhaust the air to the exterior of the building, and shall provide a total air exchange every 15 minutes.

(2006 Code, sec. 30-28; Ordinance 11-10-896, sec. 5, adopted 9/6/11)

Sec. 10.03.010 Possession or purchase of tobacco or e-cigarette products by minor

- (a) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

E-cigarette. Is defined as set forth in section 10.03.001.

Minor. A person younger than 18 years of age.

Possession. Actual care, custody, control or management.

Tobacco product.

- (1) A cigarette;
- (2) A cigar;

- (3) Smoking tobacco, including granulated, plug-cut, crimp-cut, ready rubbed and any form of tobacco suitable for smoking in a pipe or as a cigarette;
 - (4) Chewing tobacco, including plug, scrap, and any kind of tobacco suitable for chewing;
 - (5) Snuff or other preparations of pulverized tobacco; or
 - (6) Any other article or product that is made of tobacco.
- (b) Prohibition of possession of a tobacco product or e-cigarette by a minor. A minor commits an offense if the minor possesses a tobacco or e-cigarette product, and the minor was not:
- (1) In the course and scope of the minor's employment by a person or entity holding a permit issued by the state authorizing the person to engage in the business of being a distributor, wholesaler, bonded agent or retailer of tobacco products or e-cigarettes; or
 - (2) In the presence of an adult, parent, guardian, spouse or other adult to whom the minor had been committed by a court.
- (c) Purchase of a tobacco product or e-cigarette by a minor utilizing false information. A minor commits an offense if, in order to acquire a tobacco product or an e-cigarette, the minor states to any person engaged in the business of selling tobacco products or e-cigarettes that such minor is 18 years of age or older, or presents to any such person a document or writing that purports to establish that such minor is 18 years of age or older.

(1993 Code, sec. 92.08; 2006 Code, sec. 30-29; Ordinance 99-05-453, sec. 9, adopted 5/3/99; Ordinance 13-11-963, sec. 3, adopted 11/19/13)

Sec. 10.03.011 Tobacco product or e-cigarette vending machines

After June 1, 1999, it shall be unlawful for any business owner, manager, or employee in control of the premises where a tobacco product or e-cigarette vending machine is located to have the tobacco product or e-cigarette vending machine located in an area accessible to minors. (1993 Code, sec. 92.09; 2006 Code, sec. 30-30; Ordinance 99-05-453, sec. 10, adopted 5/3/99; Ordinance 13-11-963, sec. 4, adopted 11/19/13)

Sec. 10.03.012 Retail tobacco or e-cigarette stores

Retail tobacco or e-cigarette stores are required to be located in a stand-alone building (as defined by the adopted building code). (2006 Code, sec. 30-31; Ordinance 10-04-835, sec. 3, adopted 4/5/10; Ordinance 13-11-963, sec. 5, adopted 11/19/13)

ARTICLE 10.04 PROPERTY MAINTENANCE*

Sec. 10.04.001 Duty to maintain property in sanitary condition

- (a) Responsibility. An owner, occupant, or other person in control of real property shall maintain the property in a safe, sanitary condition.
- (b) Weeds, rubbish, filth and other objectionable matter. An owner, occupant, or other person in control of real property may not allow the following to accumulate on the person's property or in the area from the person's property line to the adjacent curblane:

- (1) Weeds or grass more than ten inches tall;

* **State law reference**—Municipal regulation of sanitation, V.T.C.A., Health and Safety Code, sec. 342.001 et seq.

- (2) Garbage, rubbish, brush, and other objectionable, unsightly, or unsanitary matter; or
 - (3) Filth, carrion, or other impure or unwholesome matter.
- (c) Stagnant water. An owner, occupant, or other person in control of real property may not allow stagnant water that is likely to promote disease to accumulate on the person's property. An owner, occupant, or other person in control of real property shall drain, fill, or re-grade the person's property to remove or prevent a violation of this subsection.
- (d) Penalty. An owner, occupant, or other person in control of real property who violates this section commits a class C misdemeanor punishable by a fine of up to \$2,000.00 under section 1.01.009.

(2006 Code, sec. 30-101; Ordinance 05-08-667, sec. 2 (95.01), adopted 8/15/05)

Sec. 10.04.002 Abatement of dangerous weeds

- (a) The city manager, or his duly appointed representative, may go upon property and do or cause to be done the work necessary to obtain compliance with section 10.04.001 without notice when weeds:
- (1) Have grown higher than 48 inches; and
 - (2) Are an immediate danger to the health, life, or safety of any person.
- (b) No later than the tenth day after the date the city causes the work to be done under this section, the city shall give notice to the property owner in the manner required by section 10.04.004.
- (c) The notice referred to in subsection (b) of this section shall contain:
- (1) An identification of the property, which is not required to be a legal description of the property;
 - (2) A description of the violations of this article that occurred on the property;
 - (3) A statement that the city abated the weeds;
 - (4) An itemized statement of the charges incurred by the city in doing or in having such work done as necessary to bring the real property into compliance with section 10.04.001; and
 - (5) An explanation of the property owner's right to request an administrative hearing about the city's abatement of the weeds.
- (d) The municipal court judge shall conduct an administrative hearing on the abatement of the weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the city a written request for a hearing.
- (e) An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.
- (f) The city may assess expenses and create liens under this section as it assesses expenses and creates liens as provided in section 10.04.005.

(2006 Code, sec. 30-102; Ordinance 05-08-667, sec. 2 (95.02), adopted 8/15/05)

State law reference—Additional authority to abate dangerous weeds without notice, V.T.C.A., Health and Safety Code, sec. 342.008.

Sec. 10.04.003 Issuance of notice

If an owner, occupant, or other person in control of real property, occupied or unoccupied, within the corporate limits of the city, fails to comply with the provisions of this article, it shall be the duty of the city manager or his duly appointed representative to give a minimum of seven days' written notice to such person violating the terms of this article. (2006 Code, sec. 30-103; Ordinance 05-08-667, sec. 2 (95.03), adopted 8/15/05)

Sec. 10.04.004 Work or improvements by city; service of notice; correction of subsequent violations without notice

(a) If the owner of property fails or refuses to comply with the requirements under this article within seven days of notice of a violation, the city may:

- (1) Issue a citation;
- (2) Do the work or make the improvements required; and
- (3) Pay for the work done or improvements made and charge the expenses to the owner of the property.

(b) The notice referred to in subsection (a) of this section must be given:

- (1) Personally to the owner in writing;
- (2) By letter addressed to the owner at the owner's address as recorded in the county appraisal district records; or
- (3) If personal service cannot be obtained:
 - (A) By publication 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.

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

(d) In a notice provided under this section, the city may inform the owner by regular mail and a posting on the property, or by personally delivering the notice, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the municipality without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city without notice may take any action permitted by subsections (a)(1) and (2) of this section and assess its expenses as provided by section 10.04.005.

(2006 Code, sec. 30-104; Ordinance 05-08-667, sec. 2 (95.04), adopted 8/15/05)

Sec. 10.04.005 Assessment of city's expenses; lien

(a) The city's charge for mowing and clearing of acreage shall be as stated in the city's fee schedule, as printed in appendix A to this code. If the charge is not paid to the city within 30 days after billing, the city may

file a lien upon the premises for all administrative fees and costs of abatement. The city may assess expenses incurred under section 10.04.004 against the real estate on which the work is done or improvements made.

(b) To obtain a lien against the property, the city manager or his duly authorized representative must file a statement of expenses with the county clerk. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien attaches upon the filing of the lien statement with the county clerk.

(c) The lien obtained by the city is security for the expenditures made and interest accruing at the rate of ten percent on the amount due from the date of payment by the city.

(d) The lien filed under this section is inferior only to:

- (1) Tax liens; and
- (2) Liens for street improvements.

(e) The city council may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.

(f) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

(2006 Code, sec. 30-105; Ordinance 05-08-667, sec. 2 (95.05), adopted 8/15/05)

Sec. 10.04.006 Enforcement

The provisions of this article shall be enforced by the city manager, and his duly appointed representatives, and it shall be unlawful for any person to interfere with or hinder the city manager and his duly appointed representatives in the exercise of their duties under this article. Notwithstanding any provisions contained in this article to the contrary, the city manager and his duly appointed representatives are hereby granted the authority to issue immediate citations to persons violating any provision of this article in their presence. (2006 Code, sec. 30-106; Ordinance 05-08-667, sec. 2 (95.06), adopted 8/15/05)

Sec. 10.04.007 Penalty; additional remedies

(a) Any person violating or failing to comply with any provision or requirement of this article who continues to violate or fails to comply with such after seven days after notice is provided as set forth in section 10.04.004 shall also be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided in section 1.01.009. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.

(b) Notwithstanding the provisions of subsection (a) of this section, any violation of any provision of this article which constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose.

(c) In addition to any other remedies or penalties contained in this article, the city may enforce the provisions of this article pursuant to the applicable provisions of V.T.C.A., Local Government Code ch. 54, as amended, which chapter provides for the enforcement of municipal ordinances.

(d) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this article.

(2006 Code, sec. 30-107; Ordinance 05-08-667, sec. 2 (95.07), adopted 8/15/05)

ARTICLE 10.05 HAZARDOUS MATERIALS AND OPEN BURNING***Sec. 10.05.001 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:

Hazardous material. Any substance or material in a quantity or form which, in the determination of the fire chief or his authorized representative, poses a risk to persons, property or the environment, including but not limited to such substances as explosives, radioactive materials, petroleum products, poisons, compressed or liquefied gases, etiologic (biologic) agents, oxidizers, corrosives, carcinogens, cryogens and organic peroxides.

Hazardous material incident. The release, or potential release, of any hazardous material from its container into the environment.

(1993 Code, sec. 99.01; 2006 Code, sec. 82-401; Ordinance 408, sec. 2, adopted 4/7/97)

Sec. 10.05.002 Liability for costs related to hazardous material incident

Any party who accidentally, negligently, or intentionally causes or is responsible for a hazardous material incident within the city shall be liable for the payment of costs incurred by the fire department, police department, health department, public works department, and any other department or agency which assists in abating such an event. The remedy provided by this section shall be in addition to any other remedies provided by law. (1993 Code, sec. 99.02; 2006 Code, sec. 82-402; Ordinance 408, sec. 1, adopted 4/7/97)

Sec. 10.05.003 Billing for costs related to hazardous material incident

For the purposes of this article, costs incurred by the fire department, police department, health department, public works department, or other departments of the city shall include, but not be limited to, expenses attributable to the abatement or cleanup of any hazardous material incident, including costs of personnel, costs of equipment operations, costs of materials and supplies, costs of specialists, experts or other contract labor not in the full-time employment of the city, disposal costs, overhead costs, overtime costs and any other incidental costs incurred by the city. Basic costs associated with fire department services shall be in accordance with the adopted fee schedule. The responsible party shall be billed for the recovery of costs described above as follows:

- (1) For the first hour of an incident, measured from the time the first fire department vehicle arrives at the scene of the incident, only the cost of materials, supplies, disposal, and specialists/experts not in full-time employment of the city shall be billable.
- (2) Beginning one hour after the first fire department vehicle arrives at the scene of the incident, all costs described in this section shall be billable.

(1993 Code, sec. 99.03; 2006 Code, sec. 82-403; Ordinance 408, sec. 3, adopted 4/7/97; Ordinance adopting 2015 Code)

Sec. 10.05.004 Permit for open burning

Permits for open burning to facilitate land clearing will be issued subject to the restrictions of the fire department, the health department, and the appropriate state regulating agency. The fee for open burning permits shall be in accordance with the adopted fee schedule. (1993 Code, sec. 99.04; 2006 Code, sec. 82-404; Ordinance 408, sec. 4, adopted 4/7/97; Ordinance adopting 2015 Code)

* **State law references**—Hazardous substances, V.T.C.A., Health and Safety Code, ch. 501 et seq.; Texas Clean Air Act, V.T.C.A., Health and Safety Code, ch. 382.

Sec. 10.05.005 Permit for storage, handling or use of hazardous materials

Permits shall be required for the storage, handling, or use of hazardous materials in excess of the amounts outlined on the most current list of chemicals with an immediate danger to life and health (IDLH) issued by the Environmental Protection Agency (EPA). Copies of such lists are maintained in the office of the fire chief. The fee for hazardous materials permits shall be in accordance with the adopted fee schedule. Application for hazardous materials permits will be made to the city permit office. (1993 Code, sec. 99.05; 2006 Code, sec. 82-405; Ordinance 408, sec. 5, adopted 4/7/97; Ordinance adopting 2015 Code)

Sec. 10.05.006 Authority to file suit for injunctive relief

Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city, the fire chief or his authorized representative, both for injunctive relief as may be necessary to enforce the provisions of this article, and for the collection of damages as provided herein. (1993 Code, sec. 99.06; 2006 Code, sec. 82-406; Ordinance 408, sec. 6, adopted 4/7/97)

ARTICLE 10.06 FOOD ESTABLISHMENTS***Division 1. Generally****Sec. 10.06.001 Purpose and scope**

(a) The function of this article is to protect the public health by establishing uniform requirements for food service operations.

(b) The regulatory authority may also enforce state or federal statutes or regulations applicable to a food service establishment operating within the city.

(1993 Code, sec. 113.01; 2006 Code, sec. 22-151; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.002 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:

Adulterated food. A food containing any poisonous or deleterious substance as specified in V.T.C.A., Health and Safety Code sec. 431.002(17), as the same may be amended.

Approved. Acceptable to the regulatory authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

Base of operation. An operating base location to which a mobile food establishment transportation vehicle returns as needed for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

Bed and breakfast. An establishment with rooms for rent that serves only breakfast to overnight guests. The establishment is not a retail food establishment and the owner or manager shall successfully complete an accredited food manager's certification course.

Bed and breakfast food establishment. An establishment that provides food service other than breakfast to its overnight guests. The establishment must meet the rules and regulations applicable to retail food establishments.

* **State law reference**—Regulation of food service establishments, retail food stores, mobile food units, and roadside food vendors, V.T.C.A., Health and Safety Code, sec. 437.001 et seq.

Beverage. A liquid for drinking, including water.

Child care center. Any facility licensed by the regulatory authority to receive 13 or more children for child care which prepares food for on-site consumption.

Cleaned in place. The circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. The term “cleaned in place” does not include the cleaning of equipment such as band saws, slicers or mixers that are subject to in-place manual cleaning without the use of a CIP system.

Code of Federal Regulations (CFR). The compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

Commissary. A catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

Common dining area. A central location in a group residence where people gather to eat at mealtime. The term “common dining area” does not apply to a kitchenette or dining area located within a resident’s private living quarters.

Confirmed disease outbreak. A food-borne illness outbreak in which laboratory analysis of appropriate specimens identifies a causative organism and epidemiological analysis.

Consumer. A person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer for resale.

Corrosion-resistant material. A material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

Critical. A provision of these rules that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, injury, or environmental health hazard.

Critical control point. A point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

Critical limit. The maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

Dry storage area. A room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

Easily cleanable. Surfaces that are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

Employee. The permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

Equipment. An article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, steam table, temperature measuring device for ambient air, vending machine, warewashing machine, and similar items other than utensils, used in the operation of a food service establishment.

Failing score. When an establishment receives an accumulation of critical and noncritical violations resulting in a rating below standards.

Fish. Fresh or saltwater finfish, crustaceans and other forms of aquatic life other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. The term includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

Food-borne disease outbreak. An incident in which two or more persons experience a similar illness after ingestion of a common food, and epidemiological analysis implicates the food as the source of the illness; except that in the cases of botulism or chemical poisoning, one ill person shall constitute an outbreak.

Food-contact surface. A surface of equipment or a utensil with which food normally comes into contact; or a surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.

Food employee. An individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

Food establishment. An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption, such as a food service establishment, retail food store, satellite or catered feeding location, catering operation, market, or remote catered operations, and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders, or restaurant takeout orders, or where consumption is on or off the premises, and regardless of whether there is a charge for the food. The term “food establishment” does not include a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function, such as a religious or charitable organization’s bake sale, a bed and breakfast limited facility as defined in this article, or a private home.

Food processing plant. A commercial operation that manufactures, packages, labels or stores food for human consumption and does not provide food directly to a consumer. The term “food processing plant” does not include a “food establishment” as previously defined.

Fresh. Recently made, produced or harvested.

Hazard. A biological, chemical, or physical property that may cause an unacceptable consumer health risk.

Hazard analysis critical control point (HACCP). A rational, systematic approach that identifies and monitors specific food-borne hazards (biological, physical or chemical) that may adversely affect the safety of the food product. This system utilizes the HACCP principles as defined by the National Advisory Committee on Microbiological Criteria for Foods (NACMCF), 1992, or its successor document.

Hazard analysis critical control point plan. A written document that delineates the formal procedures for following the HACCP principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

Hermetically sealed container. A container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

Highly susceptible population. A group of persons who are more likely than other populations to experience food-borne disease because they are immunocompromised or older adults; and in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a child care center.

Hot truck. A vehicle-mounted food establishment which prepares foods on-site within the vehicle. The vehicle is equipped to comply with regulations applicable to a fixed food service establishment.

Imminent health hazard. A significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury.

Kitchenware. All multi-use utensils other than tableware.

Law. Federal, state, and local statutes, ordinances, and regulations.

Linens. Fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments, including cloth gloves.

Mobile food unit. A vehicle-mounted food establishment designed to be readily movable.

Molluscan shellfish. Any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

Packaged. Bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. The term “packaged” does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

Permit. The document issued by the regulatory authority that authorizes a person to operate a food permit [establishment].

Person in charge. The individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

Personal care items. Items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person’s health, hygiene, or appearance. The term “personal care items” includes such items as medicines, first aid supplies, and other items such as cosmetics and toiletries such as toothpaste and mouthwash.

Personal items. Articles belonging to employees.

Poisonous or toxic materials. Substances that are not intended for ingestion, including cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes and other chemicals; pesticides and rodenticides; and substances necessary for the operation and maintenance of the establishment such as non-food-grade lubricants and personal care items that may be deleterious to health.

Potable. Suitable or safe for drinking.

Potable water. Water that is fit for drinking.

Potentially hazardous food. Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustaceans, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term “potentially hazardous food” does include clean, whole, uncracked, odor-free shell eggs. The term does not include foods which have a pH level of 4.5 or below or a water activity (Aw) value of 0.85 or less.

Premises. The physical facility, its contents, and the contiguous land or property under the control of the permit holder; or the physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the permit holder that may impact food establishment personnel, facilities, or operations, if a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

Pushcart. A non-self-propelled mobile food unit limited to serving only pre-packaged, non-potentially-hazardous food or pre-packaged ice cream. A pushcart is classified as a mobile food unit.

Ready-to-eat food. Food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form. The term “ready-to-eat” includes unpackaged potentially hazardous food that is cooked to the temperature and time required for the specific food under 25 Tex. Admin. Code sec. 229.164(k) (the Texas Food Establishment Rules); raw, washed, cut fruits and vegetables; whole, raw, fruits and vegetables that are presented for consumption without the need for further washing, such as at a buffet; and other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks or shells are removed.

Refuse. Solid waste not carried by water through the sewage system.

Regulatory authority. The city manager or his designated representative.

Safe material. An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food; an additive that is used as specified in V.T.C.A., Health and Safety Code ch. 431, or other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

Sanitization. Effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce bacterial count, including pathogens, to a safe level on utensils and equipment.

Sealed. Free of cracks or other openings that allow the entry or passage of moisture.

Seasonal food establishment. A food service establishment that operates at a fixed location for a period greater than 14 consecutive days, but less than 90 consecutive days, in conjunction with a single event or celebration.

Sewage. Liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

Single-service articles. Cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for one-time, one-person use and then discarded.

Single-use articles. Utensils and bulk food containers designed and constructed to be used once and discarded. The term “single-use articles” includes items such as wax paper, butcher paper, plastic wrap, formed aluminum containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the material, durability, strength, and cleanability specifications under 25 Tex. Admin. Code sec. 229.165(x)(1), (c)(1), and (d)(1) (the Texas Food Establishment Rules) (relating to equipment, utensils, and linens) for multi-use utensils.

Slacking. The process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of minus 23 degrees Celsius (minus ten degrees Fahrenheit) to minus four degrees Celsius (25 degrees Fahrenheit) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously lock-frozen food such as spinach.

Sound condition. Free from defect, decay or damage; healthy.

Sufficient size. As much as is needed; adequate to contain all materials.

Temporary food establishment. A food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

Utensil. Any implement used in the storage, preparation, transportation, or service of food.

Vending machine. A self-service device that, upon insertion of a coin, paper currency, token, card, or key, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

Vending machine location. The room, enclosure, space or area where one or more vending machines are installed and operated, and includes the storage and servicing areas on the premises that are used to service and maintain the vending machines.

Warewashing. The cleaning and sanitizing of food-contact surfaces of equipment and utensils.

Wholesome. In good condition, healthy.

(1993 Code, sec. 113.02; 2006 Code, sec. 22-152; Ordinance 01-11-542 adopted 11/19/01; Ordinance adopting 2015 Code)

Secs. 10.06.003–10.06.030 Reserved

Division 2. Food Care

Sec. 10.06.031 Food supplies

(a) **Generally.** Food shall be in sound condition, wholesome, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

- (1) Food establishment or manufacturers' dating information on food may not be concealed or altered.
- (2) Food prepared in a private home may not be used or offered for human consumption.
- (3) Potentially hazardous foods can only be sold from a permitted fixed facility.

(b) **Special requirements.**

- (1) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.
- (2) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in nonreturnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they are received until they are used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and an interstate certification number issued by the state or foreign shellfish control agency.
- (3) Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard-boiled peeled eggs, commercially prepared and packaged, may be used.

(1993 Code, sec. 113.015; 2006 Code, sec. 22-171; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.032 Food protection

(a) Generally. At all times, including while being stored, prepared, displayed, served or transported, food shall be protected from potential contamination. Potential contamination to food includes, but is not limited to, dust, insects, rodents, unclean equipment and utensils, unnecessary handling by the use of sanitary disposable gloves, coughs and sneezes, flooding, drainage, and overhead drippage from condensation.

(b) Emergency occurrences. In the event of an occurrence such as a fire, flood, extended power outage for a minimum of 45 minutes, or similar event which might result in the contamination of food, or which might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever action that it deems necessary to protect the public health.

(1993 Code, sec. 113.016; 2006 Code, sec. 22-172; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.033 Food storage

(a) Generally.

- (1) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container intended for food storage except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.
- (2) Containers of food shall be stored a minimum of six inches above the floor in the manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:
 - (A) Metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers, need not be elevated when the food container is not exposed to floor moisture; and
 - (B) Containers may be stored on dollies or racks, provided such equipment is easily movable.
- (3) Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.
- (4) Food shall be protected from cross-contamination by separating raw animal food during storage, preparation, holding and display from:
 - (A) Raw ready-to-eat food, including other raw animal food such as fish, sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables; and
 - (B) Cooked ready-to-eat food.
- (5) Packaged food may not be stored in direct contact with ice or water if the food is subject to entry of water because of the nature of its packaging, wrapping, or container or its position in the ice or water. Unpackaged food may not be stored in direct contact with undrained ice with the exception of whole, raw fruits and vegetables; cut, raw vegetables and tofu may be immersed in ice or water. Raw chicken and raw fish that are received immersed in ice in a shipping container may remain in that condition while awaiting preparation, display, service or sale.

- (6) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained shall be stored in a container identifying the food by common name.
 - (7) Proper separation and identification of employee's personal food and items must be stored in a manner that will prevent contamination of items intended for public consumption.
- (b) Refrigerated storage.
- (1) Conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of all potentially hazardous food at required temperatures during storage.
 - (2) Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit, located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to plus or minus three degrees Fahrenheit, may be used in lieu of indicating thermometers.
 - (3) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 40 degrees Fahrenheit (five degrees Celsius) or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling, or water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be displayed for sale or service or transported shall be pre-chilled and held at a temperature of 40 degrees Fahrenheit (five degrees Celsius) or below.
 - (4) Frozen foods shall be kept frozen and shall be stored at a temperature of zero degrees Fahrenheit (minus 18 degrees Celsius) or below.
 - (5) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.
- (c) Date marking.
- (1) Prepared-on-premises ready-to-eat potentially hazardous food held refrigerated for more than 24 hours in a food establishment shall be clearly marked at the time of preparation to indicate the date, including the day of preparation, by which the food shall be consumed, which shall be seven calendar days or less from the day that the food is prepared.
 - (2) Commercially processed ready-to-eat food prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment, to indicate the date, including the day the original container is opened, by which the food shall be consumed, which is seven calendar days or less after the original container is opened.
- (d) Hot storage.
- (1) Conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit, located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers, accurate to plus or minus three degrees Fahrenheit, may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bainmaries, steam tables, steam kettles, heat lamps, cal-rod

units, or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature.

- (2) The internal temperature of potentially hazardous foods requiring hot storage shall be 140 degrees Fahrenheit (60 degrees Celsius) or above except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140 degrees Fahrenheit (60 degrees Celsius) or above unless maintained in accordance with subsection (b)(2) of this section.

(1993 Code, sec. 113.017; 2006 Code, sec. 22-173; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.034 Food preparation

(a) Food handling. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

(b) Preparation. Food employees shall prepare ready-to-eat foods using suitable utensils, such as tissue, spatulas, tongs, single-use gloves or dispensing equipment.

- (1) Hand washing. Food employees shall wash their hands as specified under section 10.06.062.

- (2) Use of gloves. Hands must be washed prior to use of gloves. If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation. Slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified by these rules, such as frozen food or a primal cut of meat. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves are covered with a smooth, durable, and nonabsorbent glove or a single-use glove. Cloth gloves may not be used in direct contact with food, unless the food is subsequently cooked as required in these rules such as frozen food or a primal cut of meat.

(c) Raw fruits and vegetables. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

(d) Cooking potentially hazardous foods. Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140 degrees Fahrenheit (60 degrees Celsius) except that:

- (1) Poultry, poultry stuffing, stuffed meats and stuffing containing meat shall be cooked to heat all parts of the food to at least 165 degrees Fahrenheit (74 degrees Celsius) with no interruption of the cooking process.
- (2) Pork and any food containing pork shall be cooked to heat all parts of the food to at least 150 degrees Fahrenheit (66 degrees Celsius).
- (3) Rare roast beef shall be cooked to an internal temperature of at least 130 degrees Fahrenheit (54 degrees Celsius), and rare beef steak shall be cooked to a temperature of 130 degrees Fahrenheit (54 degrees Celsius), unless otherwise ordered by the immediate consumer.
- (4) Reconstructed and/or ground beef products shall be cooked to an internal temperature of at least 155 degrees Fahrenheit for a minimum of 15 seconds, unless otherwise ordered by the immediate consumer.
- (5) Consumers shall be informed by brochures, deli case menu advisories, label statements, table tents, placards, or other effective written means of the potential hazards of raw animal food such as raw marinated fish, raw molluscan shellfish, steak tartare, and partially cooked food such as lightly

cooked fish, rare meat and soft cooked eggs and that to ensure its safety, the food should be cooked to proper temperatures.

- (6) Food establishments which deliver shellfish to a consumer for raw consumption shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such shellfish in raw or undercooked form. The language in the advisory shall be as follows unless otherwise approved by the retail foods division of the department of state health services in response to a written request from the food establishment: "There is a risk associated with consuming raw oysters or any raw animal protein. If you have chronic illness of the liver, stomach, or blood, or have immune disorders, you are at the greatest risk of illness from raw oysters and should eat oysters fully cooked. If unsure of your risk, consult your physician."
- (e) Parasite destruction. Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked or marinated partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of minus four degrees Fahrenheit or below for seven days in a freezer or minus 31 degrees Fahrenheit or below for 15 hours in a blast freezer. Records must be maintained for 90 calendar days beyond the time of service or sale of the fish. If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna) or *Thunnus thynnus* (Bluefin, Northern), the fish may be served or sold in raw, raw-marinated or partially cooked ready-to-eat form without freezing.
- (f) Dry milk and dry milk products. Reconstituted dry milk products may be used in instant desserts and whipped products or for cooking and baking purposes.
- (g) Liquid, frozen, or dry eggs and egg products.
 - (1) Liquid, frozen, or dry eggs and egg products shall be obtained pasteurized. Pasteurized liquid, frozen or dry eggs shall be substituted for raw eggs in preparation of Caesar salad, hollandaise sauce or bernaïse sauce, mayonnaise, eggnog, ice cream and egg fortified beverages.
 - (2) Shell eggs that are broken, combined in a container, and not cooked immediately are prohibited.
- (h) Reheating. Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to 165 degrees Fahrenheit (75 degrees Celsius) or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bainmaries, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of potentially hazardous foods.
- (i) Cooling. Potentially hazardous foods that have been cooked and are required to be cooled shall be rapidly cooled to 40 degrees Fahrenheit (five degrees Celsius) or below within four hours of preparation. Potentially hazardous foods shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container.
- (j) Product thermometers. Metal stem type numerically scaled indicating thermometers, accurate to plus or minus two degrees Fahrenheit, shall be provided and used to assure the attainment and maintenance of proper internal cooking, boiling, or refrigeration temperatures of all potentially hazardous foods.
- (k) Thawing potentially hazardous foods. Potentially hazardous foods shall be thawed:
 - (1) In refrigerated units not to exceed 40 degrees Fahrenheit (five degrees Celsius);
 - (2) Completely submerged under running water at a water temperature of 70 degrees Fahrenheit (21 degrees Celsius) or below, with sufficient water velocity to agitate and float off loose particles in an overflow;

- (3) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of the continuous cooking process or when the entire uninterrupted cooking process takes place in the microwave oven; or
 - (4) As part of the conventional cooking process.
- (l) Slacking. Frozen potentially hazardous food that is slacked to moderate the temperature shall be held under refrigeration that maintains the food temperature at 41 degrees Fahrenheit or less or at any temperature if the food remains frozen.

(1993 Code, sec. 113.018; 2006 Code, sec. 22-174; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.035 Food display and service

(a) Potentially hazardous foods. Potentially hazardous food shall be kept at an internal temperature of 40 degrees Fahrenheit (five degrees Celsius) or below or at an internal temperature of 140 degrees Fahrenheit (60 degrees Celsius) or above during storage, preparation, display, service and transport, except that rare roast beef shall be held for service at a temperature of at least 130 degrees Fahrenheit (54 degrees Celsius).

(b) Time as a public health control. If time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption:

- (1) The food shall be marked, labeled, tagged or otherwise unmistakably identified to indicate the time which is four hours past the point when the food was removed from temperature control;
- (2) The food shall be cooked and served, served if a ready-to-eat food or discarded within four hours of the time at which the food was removed from temperature control;
- (3) The food in unmarked containers or packages or marked to exceed a four-hour time limit shall be discarded; and
- (4) Written procedures shall be maintained in the food establishment and made available to the regulatory authority upon request, to ensure compliance.

(c) Milk and cream dispensing.

- (1) Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where it is necessary to provide individual servings under special institutional circumstances, milk and milk products may be poured from a commercially filled container provided such a procedure is authorized by the regulatory authority. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container.
- (2) Cream or half-and-half shall be provided in an individual service container or protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(d) Nondairy products dispensing. Nondairy cream shall be provided in an individual service container or protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(e) Condiment dispensing.

- (1) Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with subsection (h) [(i)] of this section.

- (2) Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or pour-type dispenser. Sugar for consumer usage shall be provided in individual packages or in pouring-type dispensers.
- (f) Ice dispensing. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic-service ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.
- (g) Dispensing utensils. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:
- (1) Stored in the food with the dispensing utensil handle extended out of the food;
 - (2) Stored clean and dry;
 - (3) Stored in running water; or
 - (4) Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.
- (h) Reservice. Once served to a consumer, portions of leftover food shall not be served again, except that packaged food, other than potentially hazardous foods, that is still packaged and is still in sound condition may be served.
- (i) Display equipment. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases or by other effective means. The minimum height requirement for sneeze guards is 18 inches unless otherwise specified by the regulatory authority. Enough hot or cold food facilities shall be available to maintain the required temperatures of potentially hazardous foods on display.
- (j) Reuse of tableware. Reuse of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement.

(1993 Code, sec. 113.019; 2006 Code, sec. 22-175; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.036 Food transportation

During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of this article relating to food protection and food storage. (1993 Code, sec. 113.020; 2006 Code, sec. 22-176; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.037 HACCP plan

- (a) Requirements.
- (1) Preparation of plan. Before engaging in an activity that requires a HACCP plan, a food establishment shall submit to the regulatory authority for approval a properly prepared HACCP plan as specified under subsection (a)(2) of this section and the relevant provisions of these rules if

a variance is required. A food establishment shall have a properly prepared HACCP plan as specified in the Texas Food Establishment Rules (25 Tex. Admin. Code secs. 229.161–229.175).

- (2) Contents of plan. For a food establishment that is required under subsection (a)(1) of this section to have a HACCP plan, the plan and specifications shall indicate:

- (A) A categorization of the types of potentially hazardous foods that are specified in the menu such as soups and sauces, salads, and bulk solid foods such as meat roasts, or of other foods that are specified by the regulatory authority.
- (B) A flow diagram by specific food and category type identifying critical control points and providing information on the following:
 - (i) Ingredients, materials, and equipment used in the preparation of the food; and
 - (ii) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved.
- (C) Food employee and supervisory training plan for the person in charge and food employees pertaining to public health and the safety and integrity of food.
- (D) A statement of standard operating procedures for the plan under consideration including and clearly identifying:
 - (i) Each critical control point;
 - (ii) The critical limits for each critical control point;
 - (iii) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;
 - (iv) The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;
 - (v) Action to be taken by the person in charge if the critical limits for each critical control point are not met; and
 - (vi) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed.
- (E) Additional scientific data or other information, as requested by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

(b) Confidentiality; trade secrets. The regulatory authority shall treat as confidential in accordance with the requirements of the Public Information Act, V.T.C.A., Government Code ch. 552, information that meets the criteria for a trade secret and is contained on inspections report forms and in the plans and specifications submitted.

(1993 Code, sec. 113.021; 2006 Code, sec. 22-177; Ordinance 01-11-542 adopted 11/19/01)

Secs. 10.06.038–10.06.060

Reserved

Division 3. Personnel**Sec. 10.06.061 Employee health**

(a) No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

(b) There shall be a manager on duty at all times who has completed a food service manager's certification course from any accredited institution or firm of their choice as approved by the health authority.

(c) All food service workers shall be required to successfully complete a food handler's class approved by the city within 30 days of hire.

(d) Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens, or unwrapped single-service or single-use articles.

(e) The owner or person in charge shall require food employees to provide information about their health and activities as they relate to diseases that are transmissible through food.

(1993 Code, sec. 113.030; 2006 Code, sec. 22-201; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.062 Personal cleanliness

Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, when applying gloves or changing gloves, and after smoking, eating, drinking, or using the toilet. Food handlers shall keep their fingernails clean, trimmed, filed and unpainted. (1993 Code, sec. 113.031; 2006 Code, sec. 22-202; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.063 Clothing

(a) The outer clothing of all employees shall be clean.

(b) Except as provided under subsection (c) of this section, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles.

(c) This section does not apply to food employees such as counter staff, hostesses, and wait staff who only serve beverages and wrapped or packaged foods, if they present a minimal risk of contaminating exposed food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles.

(d) Employees shall remove all jewelry, and during periods when food is manipulated by hand, remove from hands any jewelry that cannot be adequately sanitized.

(1993 Code, sec. 113.032; 2006 Code, sec. 22-203; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.064 Employee practices

(a) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection.

(b) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in equipment washing or utensil washing or food preparation areas.

(c) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

(d) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service establishment.

(1993 Code, sec. 113.033; 2006 Code, sec. 22-204; Ordinance 01-11-542 adopted 11/19/01)

Secs. 10.06.065–10.06.090

Reserved

Division 4. Equipment and Utensils

Sec. 10.06.091 Materials

(a) Generally. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

(b) Lead. Pewter alloys containing lead in excess of 0.05 percent may not be used as food-contact surfaces. Solder and flux containing lead in excess of 0.2 percent may not be used as a food-contact surface.

(c) Solder. If solder is used, it shall be composed of safe materials and be corrosion resistant and comply with the Uniform Plumbing Code, chapter 8.

(d) Wood. Hard maple or equivalently nonabsorbent materials that meet the general requirements set forth in subsection (a) of this section may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used for single-service articles, such as chopsticks, stirrers, or ice cream spoons. The use of wood as a food-contact surface under other circumstances is prohibited.

(e) Plastics. Safe plastic or safe rubber or safe rubberlike materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in subsection (a) of this section are permitted for repeated use.

(f) Mollusk and crustacean shells. Mollusk and crustacean shells may be used only once as a serving container. Further reuse of such shells for food service is prohibited.

(g) Single-service articles. Reuse of single-service articles is prohibited.

(1993 Code, sec. 113.040; 2006 Code, sec. 22-221; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.092 Design and fabrication

(a) Generally. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, peeling, pitting, chipping and crazing.

(b) Equipment. Equipment in new or extensively remodeled establishments shall be National Sanitation Foundation or equivalent approval. Any other equipment is subject to approval by the regulatory authority.

- (1) Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits and similar imperfections, and free of difficult to clean internal corners and crevices.

- (2) Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops, and skillets.
 - (3) Threads shall be designed to facilitate cleaning; ordinary “V” type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems such threads shall be minimized.
 - (4) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.
 - (5) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice, provided that such tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.
 - (6) Sinks and drain boards shall be self-draining.
- (c) Accessibility. Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:
- (1) Without being disassembled;
 - (2) By disassembling without the use of tools; or
 - (3) By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench.
- (d) In-place cleaning. Equipment intended for in-place cleaning shall be designed and fabricated that:
- (1) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen;
 - (2) Cleaning and sanitizing solutions will contact all interior food-contact surfaces;
 - (3) The system is self-draining or capable of being completely evacuated; and
 - (4) Clean-in-place (CIP) equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.
- (e) Pressure spray cleaning. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.
- (f) Thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled and accurate to plus or minus two degrees Fahrenheit.
- (g) Non-food-contact surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent checking, shall be designed and fabricated to be smooth, nonabsorbent, corrosion-resistant, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(h) Ventilation hood design. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces.

- (1) Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place. All ventilation hoods and related equipment must be installed according to the city mechanical code.
- (2) Exhaust ventilation hood systems in food preparation and warewashing areas, including components such as hoods, fans, guards, and ducting, shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

(i) Existing equipment. Equipment which was installed in a food service establishment prior to the effective date of the ordinance from which this article is derived, and which does not meet fully all of the design and fabrication requirements of this article, shall be deemed acceptable in that establishment as long as there is no change of ownership, in good repair and capable of being maintained in a sanitary condition, and the food-contact surfaces are nontoxic. Replacement equipment and new equipment acquired after the effective date of the ordinance from which this article is derived shall meet the requirements of this article.

(1993 Code, sec. 113.041; 2006 Code, sec. 22-222; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.093 Equipment installation and location

(a) Generally. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

(b) Table-mounted equipment.

- (1) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.
- (2) Equipment is portable within the meaning of subsection (b)(1) of this section if:
 - (A) It is small and light enough to be moved easily by one person; and
 - (B) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

(c) Floor-mounted equipment. Floor-mounted equipment, unless readily movable, shall be:

- (1) Sealed to the floor;
- (2) Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or
- (3) Elevated on legs to provide at least a six- inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a four-inch clearance between the floor equipment if no part of the floor under the mixer is more than six inches from cleaning access.

(d) Mobility. Equipment is easily movable if:

- (1) It is mounted on wheels or casters.

- (2) It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.
- (3) Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjoining equipment units, and between it and adjacent walls, shall be closed; or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls.

(e) Aisles and working spaces. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

(1993 Code, sec. 113.042; 2006 Code, sec. 22-223; Ordinance 01-11-542 adopted 11/19/01)

Secs. 10.06.094–10.06.120 Reserved

Division 5. Cleaning, Sanitation and Storage of Equipment and Utensils

Sec. 10.06.121 Equipment and utensil cleaning and sanitization

(a) Cleaning frequency.

- (1) Tableware shall be washed, rinsed, and sanitized after each use.
- (2) The food-contact surfaces of equipment shall be kept free of food debris and other oil accumulations. Equipment food-contact surfaces and utensils shall be clean to sight and touch.
- (3) Equipment food-contact surfaces and utensils shall be cleaned and sanitized before each use with a different type of raw animal food such as beef, fish, lamb, pork or poultry; each time there is a change from working with raw foods to working with ready-to-eat foods; between uses with raw fruits or vegetables and with potentially hazardous food; before using or storing a food temperature measuring device; and at any time during the operation when contamination may have occurred.
- (4) The food-contact surfaces of cooking and baking equipment, similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day (or at a frequency to preclude accumulation of soil residues). This shall not apply to hot oil cooking equipment and oil filtering equipment.
- (5) The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.
- (6) The regulatory authority approves the cleaning schedule based on consideration of:
 - (A) Characteristics of equipment and its use;
 - (B) The type of food involved; and
 - (C) The amount of food residue accumulation, the temperature at which the food is maintained during the operation, and the potential for rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing food-borne disease.
- (7) Non-food-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulations of dust, dirt, food particles, and other debris.

(b) Wiping cloths.

- (1) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.
- (2) Moist cloths used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in an approved sanitizing solution and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.
- (3) Moist cloths used for cleaning non-food-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed as specified in subsection (b)(2) of this section, and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.
- (4) Sponges may only be used for scraping and scouring soiled dishware.

(c) Manual cleaning and sanitizing.

- (1) A three-compartment sink shall be used for washing, rinsing and sanitizing of utensils and equipment done manually. Existing establishments not having a three-compartment sink that can demonstrate an acceptable procedure for washing, rinsing and sanitizing utensils and equipment may be exempt from this requirement by the regulatory authority. Sinks shall be large enough to permit the complete immersion of the utensils and equipment and each compartment sink shall be supplied with hot and cold potable running water. Suitable equipment shall be made available if washing, rinsing and sanitizing cannot be accomplished by immersion. Two-compartment sinks are not acceptable.
- (2) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.
- (3) Equipment and utensils shall be pre-flushed or pre-scraped and, when necessary, pre-soaked to remove gross food particles and soil.
- (4) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:
 - (A) Sinks shall be cleaned prior to use;
 - (B) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean;
 - (C) Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and
 - (D) Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in subsections (c)(5)(A) through (E) of this section.
- (5) The food-contact surfaces of all equipment and utensils shall be sanitized by:
 - (A) Immersion for at least one-half minute in clean, hot water at a temperature of at least 171 degrees Fahrenheit (77 degrees Celsius);
 - (B) Immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and a temperature of at least 75 degrees Fahrenheit (24 degrees Celsius);

- (C) Immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and have a pH not higher than 5.0 and at a temperature of at least 75 degrees Fahrenheit (24 degrees Celsius);
 - (D) Immersion in a solution of quaternary ammonia that shall have a minimum temperature of 24 degrees Celsius (75 degrees Fahrenheit), and have a concentration of 200 ppm or as indicated by the manufacturer's use directions included in the labeling and used in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the manufacturer's label;
 - (E) Immersion in a clean solution containing any other solution of chlorine, quaternary ammonia or iodine may be used if it can be demonstrated that sanitization is achieved and they are approved by the regulatory authority, or other chemical sanitizers may be used if approved by the regulatory authority and applied in accordance with the manufacturer's use directions included in the labeling;
 - (F) Treatment with steam, free from harmful materials or additives in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or
 - (G) Spraying or swabbing with a chemical sanitizing solution at least twice the strength required for that particular sanitizing solution under subsection (c)(5)(E) of this section, in the case of equipment too large to sanitize by immersion.
- (6) When hot water is used for sanitizing, the following facilities shall be provided and used:
- (A) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of 171 degrees Fahrenheit (77 degrees Celsius);
 - (B) A numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit, convenient to the sink for frequent checks of water temperature; and
 - (C) Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.
- (7) When chemicals are used for sanitization, a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided, available, and used.
- (d) Mechanical cleaning and sanitizing.
- (1) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machines or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agents, dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.
 - (2) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A one-fourth inch IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

- (3) Machine or water line mounted numerically scaled indicating thermometers accurate to plus or minus three degrees Fahrenheit shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.
- (4) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufactures' specifications attached to the machines.
- (5) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.
- (6) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a prewash cycle is a part of dishwashing machine operation. Equipment and utensils shall be placed in racks, trays or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.
- (7) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used provided that:
 - (A) The temperature of the wash water shall not be less than 120 degrees Fahrenheit (49 degrees Celsius);
 - (B) The wash water shall be kept clean;
 - (C) Chemicals added for sanitization purposes shall be automatically dispensed;
 - (D) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturer's specifications for time and concentration;
 - (E) The chemical sanitizing rinse water temperature shall not be less than 75 degrees Fahrenheit (24 degrees Celsius) nor less than the temperature specified by the machine's manufacturer; and
 - (F) Chemical sanitizers used shall be approved and a test kit or device that accurately measures the parts per million concentration of the solution shall be available and used.
- (8) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained not less than the temperatures stated below:
 - (A) Single-tank, stationary-rack, dual-temperature machine:
 - (i) Wash temperature, 150 degrees Fahrenheit (74 degrees Celsius).
 - (ii) Final rinse temperature, 180 degrees Fahrenheit (82 degrees Celsius).
 - (B) Single-tank, stationary-rack single-temperature machine:
 - (i) Wash temperature, 165 degrees Fahrenheit (74 degrees Celsius).
 - (ii) Final rinse temperature, 165 degrees Fahrenheit (74 degrees Celsius).

- (C) Single-tank, conveyor machine:
 - (i) Wash temperature, 160 degrees Fahrenheit (71 degrees Celsius).
 - (ii) Final rinse temperature, 180 degrees Fahrenheit (82 degrees Celsius).
 - (D) Multi-tank, conveyor machine:
 - (i) Wash temperature, 150 degrees Fahrenheit (66 degrees Celsius).
 - (ii) Pumped rinse temperature, 160 degrees Fahrenheit (71 degrees Celsius).
 - (iii) Final rinse temperature, 180 degrees Fahrenheit (82 degrees Celsius).
 - (E) Single-tank, pot, pan, and utensil washer (either stationary or moving rack):
 - (i) Wash temperature, 140 degrees Fahrenheit (60 degrees Celsius).
 - (ii) Final rinse temperature, 180 degrees Fahrenheit (82 degrees Celsius).
 - (9) All dishwashing machines shall be thoroughly cleaned once a day or more often when necessary to maintain them in a satisfactory operating condition.
 - (e) Drying. After sanitization, all equipment and utensils shall be air-dried. The use of towels is prohibited.
- (1993 Code, sec. 113.050; 2006 Code, sec. 22-241; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.122 Equipment and utensil storage

- (a) Handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.
- (b) Storage.
 - (1) Cleaned and sanitized utensils and equipment shall be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.
 - (2) Utensils shall be air dried before being stored or shall be stored in a self-draining position.
 - (3) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, whenever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is pre-wrapped, holders for knives, forks, and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.
 - (4) If presenting is practiced, all unprotected, unused, preset tableware shall be collected for washing and sanitizing after the meal period and after any place at a table or counter is occupied.
- (c) Single-service articles.
 - (1) Single-service articles shall be stored at least six inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer

lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

- (2) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.
- (3) Single-service knives, forks, and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks, and spoons are pre-wrapped or pre-packaged, holders shall be provided to protect these items from contamination, and present the handle of the utensil to the consumer.

(d) Prohibited storage areas. The storage of food, equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

(1993 Code, sec. 113.051; 2006 Code, sec. 22-242; Ordinance 01-11-542 adopted 11/19/01)

Secs. 10.06.123–10.06.150 Reserved

Division 6. Sanitary Facilities and Controls

Sec. 10.06.151 Water supply

(a) Generally. Enough potable water for the needs of the food service establishment shall be provided from a source constructed and operated according to law.

(b) Transportation. All potable water not provided directly by pipe to the food service establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed water system. Both of these systems shall be constructed and operated according to law.

(c) Bottled water. Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(d) Water under pressure. Water under pressure at the required temperatures shall be provided at all fixtures and equipment that use water.

(e) Hot water. Hot water generation and distribution systems shall be sufficient to meet peak hot water demands throughout the food establishment. Water under pressure at the required minimum temperature of 110 degrees Fahrenheit (45 degrees Celsius) must be provided.

(f) Steam. Steam used in contact with food or food-contact surfaces shall be free from any harmful materials or additives.

(1993 Code, sec. 113.060; 2006 Code, sec. 22-261; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.152 Sewage

All sewage, including liquid waste, shall be disposed of by a public sewage system. Non-water-carried sewage disposal facilities are prohibited, except as permitted by section 10.06.242(h) (relating to temporary food service establishments) or as permitted by the regulatory authority. (1993 Code, sec. 113.061; 2006 Code, sec. 22-262; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.153 Plumbing

(a) Generally. Plumbing shall be sized, installed and maintained in accordance with the current plumbing code as adopted and enforced by the city's building inspection department. There shall be no cross-connection between the potable water supply and any nonpotable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

(b) Nonpotable water system. A nonpotable water system is permitted only for purposes such as air conditioning and fire protection and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durable and identified so that it is readily distinguishable from piping that carries potable water.

(c) Backflow.

(1) The potable water system shall be installed to preclude the possibility of backflow. A backflow or backsiphon prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (ASSE) standards for construction, installation, maintenance, inspection and testing for that specific application and type of device.

(2) An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or non-food equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 millimeters (one inch). Air gaps may be approved based on section 601-C of the Uniform Plumbing Code.

(3) A backflow prevention device shall be located so that it may be serviced and maintained.

(4) A hose shall not be attached to a faucet unless a backflow prevention device is installed.

(d) Grease traps.

(1) Grease traps shall be required and located to be easily accessible for cleaning.

(2) Grease traps shall be located outside the food preparation area unless otherwise approved by the regulatory authority.

(3) If located inside the food preparation area, the grease trap lid must be flush to the floor.

(e) Garbage grinders. If used, garbage grinders shall be installed and maintained according to law.

(f) Drains. Except for properly trapped open sinks, there shall be no direct connection between the sewage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. Floor drains must be properly covered with drain grates. When a dishwashing machine is located within five feet of a trapped floor drain, the dishwasher waste outlet may be connected as in subsection (c) of this section to a properly vented floor drained trap if permitted by the Uniform Plumbing Code, chapter 6.

(1993 Code, sec. 113.062; 2006 Code, sec. 22-263; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.154 Toilet facilities

(a) Toilet installation. Toilet facilities shall be installed, shall be the number required in accordance with Uniform Plumbing Code, shall be conveniently located, and shall be accessible to employees at all times. At least one restroom is required for employee use. When four or more employees of different sexes are employed, two restrooms are required. Two restrooms are required with on-premises consumption at any food service establishment. Restrooms must be accessible to the public in establishments with on-site consumption.

- (b) Toilet design. Toilets and urinals shall be designed to be easily cleanable.
- (c) Toilet rooms. Toilet rooms shall be completely enclosed and shall have tightfitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance.
- (d) Toilet fixtures. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms shall have at least one covered waste receptacle.

(1993 Code, sec. 113.063; 2006 Code, sec. 22-264; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.155 Lavatory facilities

- (a) Lavatory installation. Lavatories shall be at least the number required by law, shall be installed according to law, and shall be located to permit convenient use by all employees in food preparation areas and utensil-washing areas. Lavatories shall be accessible to employees at all times. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.
- (b) Handsinks. A separate sink assigned for handwashing provided with hot and cold running water tempered through a mixing valve shall be located to be accessible to each food preparation and utensil washing area. As a general rule, a handsink shall be located within 25 linear feet of food preparation and utensil washing areas so it is convenient for employees to wash hands. Floor pedals, knee pedals, electronic eye and metered faucets are allowable. A liquid soap dispenser and individual sanitary hand towels are required. Blow dryers are not allowed in food preparation areas.
- (c) Lavatory faucets. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metered faucet used shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.
- (d) Lavatory supplies. A supply of hand-cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.
- (e) Lavatory maintenance. Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

(1993 Code, sec. 113.064; 2006 Code, sec. 22-265; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.156 Garbage and refuse

- (a) Containers.
 - (1) Garbage and refuse shall be kept in durable, easily clearable, insectproof, and rodentproof containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers, and they may be used for storage inside the food service establishment.
 - (2) Containers used in food preparation and utensil-washing areas shall be kept covered except when actually in use.
 - (3) Containers stored outside the establishment, and dumpsters, compactors and compactor systems, shall be easily cleanable, shall be provided with tightfitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

- (4) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates. The regulatory authority may require additional service, dumpsters or larger dumpsters to accommodate the garbage and refuse that accumulates at the food service establishment.
 - (5) Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas.
 - (6) Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage. Power washing and contracted cleaning services shall be performed according to applicable law.
- (b) Storage.
- (1) Garbage and refuse on the premises shall be stored in a manner to make it inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited.
 - (2) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside in a covered receptacle if it is stored so that it does not create a rodent harborage problem.
 - (3) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insectproof and rodentproof and shall be large enough to store the garbage and refuse containers that accumulate.
 - (4) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters, and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material, such as concrete, or machine-laid asphalt, that is kept clean and maintained in good repair.
- (c) Disposal.
- (1) Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.
 - (2) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter in accordance with law. Areas around incineration facilities shall be kept clean and orderly.

(1993 Code, sec. 113.065; 2006 Code, sec. 22-266; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.157 Insect and rodent control

- (a) Generally. Effective measures intended to prevent the presence of rodents, flies, cockroaches and other insects on the premises shall be utilized as determined by the regulatory authority. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.
- (b) Insect control devices. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device. Insect control devices shall be installed so that the devices are not located over food preparation areas, and dead insects and insect fragments are prevented from being impelled onto or falling on exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles.

(c) Preventive application for insect and rodent control. Preventive application for insect and rodent control shall be performed by a certified pest control operator.

(d) Openings. Opening to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tightfitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tightfitting and free of breaks. Screening material shall not be less than 16 mesh to the inch.

(1993 Code, sec. 113.066; 2006 Code, sec. 22-267; Ordinance 01-11-542 adopted 11/19/01)

Secs. 10.06.158–10.06.180

Reserved

Division 7. Construction and Maintenance of Physical Facilities

Sec. 10.06.181 Floors

(a) Floor construction. Floors and floor coverings of all food preparation, food service, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules, shall be constructed of smooth, durable material such as stainless steel, terrazzo, ceramic or quarry tile, or the equivalent as approved by the regulatory authority, and shall be maintained in good repair. Sealed concrete and vinyl composition tile (VCT) are not acceptable as a floor surface for areas mentioned above.

(b) Special construction. Durable grades of sheet vinyl may be used in dry storage areas. Sealed concrete may be used in walk-in freezer units maintaining a temperature of zero degrees Fahrenheit or below. Nothing in this subsection shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

(c) Floor carpeting. A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to grease, moisture, flushing, or spray cleaning methods. If carpeting is installed as a floor covering in areas other than those specified above, it shall be: securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method, and installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and the edges of the carpet secured by metal stripping or some other means.

(d) Prohibited floor covering. The use of cardboard, sawdust, wood shavings, peanut hulls, or similar materials as a floor covering is prohibited.

(e) Floor drains. Properly installed, trapped floor drains shall be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Properly trapped floor drains are required in all restrooms. Such floor drains shall be constructed of stainless steel, terrazzo, ceramic tile, quarry tile or similar material and shall be graded to drain.

(f) Mats and duckboards. Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

(g) Floor junctures. In all new or extensively remodeled establishments utilizing stainless steel, terrazzo, ceramic tile, quarry tile or similar materials, and where water flush cleaning methods are used, the junctures between walls and floors shall be of the same material.

(h) Utility line installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

(1993 Code, sec. 113.075; 2006 Code, sec. 22-281; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.182 Walls and ceilings

(a) Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be clean and maintained in good repair.

(b) Construction. The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, dry storage areas, food storage areas, equipment-washing and utensil washing areas, toilet rooms and vestibules, shall be light-colored, smooth, nonabsorbent, and easily cleanable such as FRP (fiberglass reinforced paneling), stainless steel, ceramic tile, quarry tile, terrazzo or equivalent approved by the regulatory authority.

(c) Exposed construction. Studs, joists and rafters shall not be exposed in those areas listed in subsection (b) of this section. If exposed in other rooms or areas, the studs, joists and rafters shall be finished to provide an easily cleanable surface.

(d) Utility line installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in subsection (b) of this section.

(e) Attachments. Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to the walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(f) Covering material installation. Wall and ceiling materials shall be attached and sealed so as to be easily cleanable.

(1993 Code, sec. 113.076; 2006 Code, sec. 22-282; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.183 Cleaning physical facilities

(a) Generally. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Cleanings of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweep compounds with brooms.

(b) Utility facility. In new or extensively remodeled establishments at least one utility sink or curbed cleaning facility with a floor drain shall be installed and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of lavatories, utensil-washing or equipment-washing or food preparation sinks for this purpose is prohibited.

(1993 Code, sec. 113.077; 2006 Code, sec. 22-283; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.184 Lighting

(a) Generally. At least 50 footcandles of light shall be provided to all working surfaces and at least 30 footcandles of light shall be provided to all other surfaces and equipment in food preparation, utensil-washing, and handwashing areas, and in toilet rooms. At least 20 footcandles of light at a distance of 30 inches from the floor shall be provided in all other areas, except that this requirement applies to dining areas only during cleaning operations.

- (b) Light fixtures. All light fixtures must be maintained, clean, operational, and in good repair.
- (c) Protective shielding.
 - (1) Shielding to protect against broken glass falling onto food shall be provided and maintained in good repair for all artificial lighting fixtures located over, by, or within food storage, food preparation, food service, and food display facilities, and facilities where utensils and equipment are cleaned and stored.
 - (2) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed. Teflon coated safety bulbs are allowed.

(1993 Code, sec. 113.078; 2006 Code, sec. 22-284; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.185 Ventilation

- (a) Generally. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to law, kept clean, maintained in good repair, vented to the outside, and shall not create an unsightly, harmful or unlawful discharge.
- (b) Special ventilation.
 - (1) Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.
 - (2) In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors, or fumes originate shall be mechanically vented to the outside.
 - (3) Ventilation hoods are required for any cooking, grilling, baking, and frying areas or as required by the latest edition of the Uniform Mechanical Code.

(1993 Code, sec. 113.079; 2006 Code, sec. 22-285; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.186 Dressing rooms and locker room areas

- (a) Dressing rooms and areas. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.
- (b) Locker area. Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.
- (c) Personal items. Personal items shall not be stored in food storage, food preparation or food service areas.

(1993 Code, sec. 113.080; 2006 Code, sec. 22-286; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.187 Poisonous or toxic materials

- (a) Materials permitted. Only those poisonous or toxic materials necessary for the maintenance of the establishment, cleaning or sanitizing of equipment and utensils, and the control of insects and rodents shall be present in a food service establishment.

(b) Labeling of materials. Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

(c) Storage of materials.

(1) Poisonous or toxic materials consist of the following three categories:

(A) Insecticides and rodenticides;

(B) Detergents, sanitizers, and related cleaning or drying agents; and

(C) Caustics, acids, polishes, and other chemicals.

(2) Each of these categories shall be stored and located to be physically separated from each other. All poisonous or toxic materials shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose. To preclude potential contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils, or single-service articles; except that this requirement does not prohibit the convenient availability of detergent or sanitizers at utensil or dishwashing stations.

(d) Use of materials.

(1) Bactericides, cleaning compounds or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees or other persons.

(2) Poisonous or toxic material shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

(e) Personal medications.

(1) Allowable medication. Only those medications that are necessary for the health of employees shall be allowed in the food establishment. This section does not apply to medicines that are stored or displayed for retail sale.

(2) Medication to be labeled. Medicines that are in a food establishment for the employee's use shall be labeled and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(3) Storage of refrigerated medicines. Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be stored in a package or container and kept inside a covered, leakproof container that is identified for the storage of medicines; and located so that they are inaccessible.

(f) First aid supplies. First aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

(1993 Code, sec. 113.081; 2006 Code, sec. 22-287; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.188 Premises

(a) Generally.

(1) Food service establishments and all parts of the property used in connection with operations of the establishment shall be kept free of litter.

- (2) The walking and driving surfaces of all exterior areas of food service establishments shall be surfaced with concrete or asphalt or with gravel or similar materials and minimize dust. These surfaces shall be graded to prevent pooling and kept free of litter.
- (3) Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.
- (4) The traffic of unnecessary or unauthorized persons through the food preparation and utensil-washing areas is prohibited.
- (b) Living areas. Living or sleeping quarters within a food service establishment are prohibited.
- (c) Laundry facilities.
 - (1) Laundry facilities in a food service establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric, gas, or steam dryer shall be provided and used.
 - (2) Separate rooms shall be provided for laundry facilities, except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.
- (d) Linens and clothes storage.
 - (1) Clean clothes and linens shall be stored in a clean place and protected from contamination until used.
 - (2) Soiled clothes and linens shall be stored outside the food preparation area in nonabsorbent containers or washable laundry bags until removed for laundering.
- (e) Cleaning equipment storage. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location.
- (f) Animals. Live animals, including birds and turtles, shall be excluded from within the food service operational premises and from immediately adjacent areas under the control of the food service establishment. This exclusion does not apply to shellfish, or to fish in aquariums. Live fish tanks are subject to removal by the regulatory authority if not maintained in a clean, sanitary condition. Patrol dogs accompanying security or police officers, or guide dogs accompanying blind persons, shall be permitted in dining areas.

(1993 Code, sec. 113.082; 2006 Code, sec. 22-288; Ordinance 01-11-542 adopted 11/19/01)

Secs. 10.06.189–10.06.210

Reserved

Division 8. Mobile Food Units

Sec. 10.06.211 General provisions

- (a) Compliance with other requirements; additional requirements; waiver of requirements. Mobile food units shall comply with the requirements of this article, except as otherwise provided in this division and in subsection (b) of this section. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard will result, may waive or modify requirements of this article relating to physical facilities, except those requirements in this article of subsections (d) and (e) of this section, section 10.06.212(a) and section 10.06.213(a) and (b).

(b) Restricted operations. Mobile food units that serve only food that is prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of the sections referenced in subsection (a) of this section, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of this article pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at its commissary.

- (1) Pushcarts shall be limited to pre-packaged ice cream or pre-packaged nonpotentially hazardous food as approved by the regulatory authority.
- (2) Food prepared in a private home may not be used or offered for human consumption from a mobile unit. Food must comply with all labeling laws.

(c) Single-service articles. Mobile food units shall provide only single-service articles for use by the consumer.

(d) Water system. A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing and handwashing, in accordance with the requirements of this article. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil or grease, and it shall be kept capped when not being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of this article.

(e) Waste retention. If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All liquid waste shall be disposed of in compliance with all existing laws. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of different size and type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

(f) Vehicles.

- (1) Vehicle identification. Mobile food units shall identify the vehicle with characters three inches high on both exterior sides of the unit stating the name of the company.
- (2) Registration. Mobile food units must comply with all state and local laws pertaining to registration of the vehicle.

(1993 Code, sec. 113.095; 2006 Code, sec. 22-311; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.212 Commissary; base of operations

(a) Mobile food units shall operate from a commissary or other fixed food service establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations. A letter from the commissary is required at the time of permit application and at each renewal of the permit.

(b) The commissary or other fixed food service establishment used as a base of operation for mobile food units shall be constructed and operated in compliance with the requirements of this article or by the approval of the regulatory authority.

(1993 Code, sec. 113.096; 2006 Code, sec. 22-312; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.213 Servicing area and operations**(a) Servicing area.**

- (1) A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or where mobile food units do not contain waste retention tanks.
- (2) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt, and shall be maintained in good repair, kept clean, and be graded to drain.
- (3) The construction of the walls and ceilings of the servicing area is exempt from the provisions of section 10.06.182 (relating to construction and maintenance of physical facilities).

(b) Servicing operations.

- (1) Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.
- (2) The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with division 6 of this article (relating to sanitary facilities and controls).

(1993 Code, sec. 113.097; 2006 Code, sec. 22-313; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.214 Catering services

(a) A person shall not engage in a catering service unless the service is affiliated with a food service establishment operating from a fixed facility that is permitted by the regulatory authority.

(b) A catering service shall comply with the requirements of sections 10.06.241 and 10.06.242 as the regulatory authority determines is necessary to protect public health and safety.

(1993 Code, sec. 113.098; 2006 Code, sec. 22-314; Ordinance 01-11-542 adopted 11/19/01)

Secs. 10.06.215–10.06.240 Reserved**Division 9. Temporary Food Service****Sec. 10.06.241 General provisions**

(a) A temporary or seasonal food service establishment shall comply with the requirements of this article except as otherwise provided in this article. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment, may prohibit the sale of some or all potentially hazardous foods, and, when no health hazard will result, may waive or modify requirements of this article. The operation of a temporary food service establishment may not exceed 14 consecutive days per event. The operation of a seasonal food service establishment is greater than 14 days, but less than 60 consecutive days per event.

(b) If the temporary food service establishment is outdoors, every food preparation and serving area must have a fire resistant overhead covering that protects the interior of the facility from the weather. Floors must be

constructed of concrete, asphalt, tight wood or other similar easily cleanable material, and kept in good repair. Outdoor events will last no longer than 72 hours.

(c) All food shall be prepared in a permitted food establishment or on the premises. No food or beverage stored or prepared in a private home may be offered for sale, sold or given away from a temporary or seasonal food facility.

(d) All food and beverages shall be protected at all times from unnecessary handling and shall be stored, displayed and served so as to be protected from contamination.

(e) The regulatory authority may establish additional structural or operational requirements as necessary to ensure that food is of a safe and sanitary quality.

(f) The regulatory authority may limit the number of seasonal (four) or temporary (six) permits issued per establishment per calendar year.

(1993 Code, sec. 113.105; 2006 Code, sec. 22-331; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.242 Restricted operations

(a) Applicability. The provisions of this section are applicable whenever a temporary food service establishment is permitted, under the provisions of section 10.06.241, to operate without complying with all the requirements of this article.

(b) Potentially hazardous foods. Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters that only require seasoning and cooking, shall be prepared or served unless otherwise approved by the health authority. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or sandwiches containing meat, poultry, eggs or fish is prohibited. This prohibition does not apply, however, to any potentially hazardous food that has been prepared or packaged under conditions meeting the requirements of this article, is obtained in individual servings, is stored at a temperature of 40 degrees Fahrenheit (five degrees Celsius), or below, or at a temperature of 140 degrees Fahrenheit (60 degrees Celsius) or above, in facilities that meet the requirements of this article, and is served directly in the unopened container in which it was packaged.

(c) Ice. Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of this article. The ice shall be obtained only in chipped, crushed, or cubed form and in a single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

(d) Equipment.

(1) Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.

(2) Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Where helpful to prevent contamination, effective shields for such equipment shall be provided.

(e) Single-service articles. All temporary food service establishments which do not have effective facilities for cleaning and sanitizing tableware shall provide only single-service articles for use by the consumer.

(f) Water. Enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment and for handwashing. A heating facility located on the premises and capable of producing enough hot water for these purposes shall be provided.

- (g) Wet storage. The storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.
- (h) Waste. All sewage, including liquid waste, shall be disposed of according to law. All refuse shall be disposed of in a manner approved by the regulatory authority.
- (i) Handwashing. A convenient handwashing facility shall be available for employee handwashing. This facility shall consist of at least warm running water, soap, and individual paper towels.
- (j) Floors. Floors shall be constructed of concrete, asphalt, tight wood or other similar cleanable material, and kept in good repair.
- (k) Walls and ceiling of food preparation areas.
 - (1) Ceilings shall be made of wood, canvas, or other materials that protect the interior of the establishment from the weather. Walls and ceiling of food preparation areas shall be constructed in a way that prevents the entrance of insects. Doors of food preparation areas shall be solid or screened and shall be self-closing. Screening material used for walls, doors, or windows shall be at least 16 mesh to the inch.
 - (2) Counter-service openings shall not be larger than is necessary for the particular operation conducted. These openings shall be provided with tightfitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects. Counter-service openings shall be kept closed, except when in actual use.

(1993 Code, sec. 113.106; 2006 Code, sec. 22-332; Ordinance 01-11-542 adopted 11/19/01)

Secs. 10.06.243–10.06.270 Reserved

Division 10. Bed and Breakfast Extended Establishments

Sec. 10.06.271 Requirements

- (a) Generally. Bed and breakfast extended establishments shall comply with the minimum requirements of this section.
- (b) Food supplies. Food shall be obtained from approved sources, shall be in sound condition, and be safe for human consumption.
- (c) Food preparation and protection.
 - (1) Food shall be prepared and protected in accordance with this article.
 - (2) All food temperature requirements shall be met in accordance with this article.
- (d) Cleaning and sanitizing.
 - (1) Manual. A three-compartment sink shall be used if washing, rinsing and sanitizing of utensils and equipment is done manually; or a two-compartment sink may be utilized if single service tableware is provided, or when an approved detergent sanitizer is used.
 - (2) Mechanical. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils either by chemical or mechanical sanitization.

- (e) Personal hygiene. Employees shall conform to good hygienic practices as required in sections 10.06.061 through 10.06.063.
- (f) Employee restrooms. A restroom shall be available for use by employees.
- (g) Equipment and utensil design and construction. All equipment and utensils shall be constructed of safe materials and maintained in good repair.
- (h) Handsinks.
 - (1) Location. An accessible and conveniently located handsink shall be provided in or immediately adjacent to food preparation areas.
 - (2) Intended use. Handsinks shall be used for no other purpose other than handwashing.
- (i) Food-contact surfaces. All food-contact surfaces, counters, or work surfaces in the establishment shall be smooth, nonabsorbent and easily cleanable.
- (j) Insect and rodent control.
 - (1) Food service preparation and storage areas shall be constructed and maintained to prevent the entry of pests and other vermin.
 - (2) Pesticides and rodenticides shall be applied according to law.
- (k) Equipment to maintain temperature. Equipment shall be provided to maintain potentially hazardous food at the temperatures required by this article.
- (l) Garbage receptacles. Impervious receptacles shall be provided for storage of garbage and refuse.
- (m) Sewage. Sewage shall be disposed through an approved facility that is:
 - (1) A public sewage treatment plant; or
 - (2) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.
- (n) Water supply. Hot and cold water under pressure shall be provided and shall be from an approved source.

(1993 Code, sec. 113.115; 2006 Code, sec. 22-351; Ordinance 01-11-542 adopted 11/19/01)

Secs. 10.06.272–10.06.300

Reserved

Division 11. Inspection and Enforcement

Sec. 10.06.301 Authority

The provisions of this article shall be enforced by the director of health and his representatives. The director of health and his representatives have the authority to issue citations to persons violating the provisions of this article. It shall be unlawful for any person to interfere with a health specialist, director of health or designee in the performance of his duties as prescribed in this article. (1993 Code, sec. 113.125; 2006 Code, sec. 22-371; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.302 Access

Agents of the regulatory authority, after proper identification, shall be permitted to enter any food service establishment at any reasonable time, for the purpose of making inspections to determine compliance with this article. The agents shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed. (1993 Code, sec. 113.126; 2006 Code, sec. 22-372; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.303 Report of inspections

Whenever an inspection is made of a food service establishment, the findings shall be recorded on the inspection report form provided by the regulatory authority. The original of the inspection report form shall be furnished to the owner or person in charge at the completion of the inspection and constitutes a written notice. The inspection report form shall summarize the requirements of this article. The completed form is a public document that shall be made available for public disclosure to any person who requests it according to law. (1993 Code, sec. 113.127; 2006 Code, sec. 22-373; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.304 Correction of violations

The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

- (1) If an imminent health hazard exists, such as complete lack of sanitization, refrigeration, or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the regulatory authority.
- (2) All violations of critical items shall be corrected within a time specified by the regulatory authority, but in any event, not to exceed ten days.
- (3) All noncritical items shall be corrected as soon as possible, but in any event by the time of the next routine inspection, but not to exceed 90 days.
- (4) When the establishment receives a failing score, the establishment shall cease operations immediately. The establishment shall remain closed until reopened by the regulatory authority.
- (5) In the case of temporary food service establishments, all violations shall be corrected immediately.

(1993 Code, sec. 113.128; 2006 Code, sec. 22-374; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.305 Examination and condemnation of food

(a) The regulatory authority may examine and collect samples of food as often as necessary for the enforcement of this article. The regulatory authority shall denature or destroy such food or bring it into compliance with the provisions of this article.

(b) The regulatory authority shall, upon written notice to the owner or person in charge specifying the reason, place under detention any food which it has probable cause to believe is adulterated or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on food by the regulatory authority, and neither food nor the containers shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without the permission of the regulatory authority.

(c) After the owner or person in charge has been afforded a hearing as provided for in section 10.06.307 and on the basis of evidence produced at such hearing, or on the basis of examination in the event a written request is not received within ten days, the regulatory authority may cancel the hold order or may oversee the disposal of

the food placed under the hold order or direct the owner or person in charge to bring it into compliance with the provisions of this article.

(1993 Code, sec. 113.129; 2006 Code, sec. 22-375; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.306 Procedure when infection is suspected

When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, it may secure a morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

- (1) The immediate exclusion of the employee from all food service establishments;
- (2) The immediate closing of the food service establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;
- (3) Restriction of the employee's services to some area of the establishment where there is no role in food preparation, storage, or service;
- (4) Adequate medical and laboratory examination of the employee, of other employees and of his and their body discharges; and
- (5) A medical release shall be required for excluded employee prior to returning to work.

(1993 Code, sec. 113.130; 2006 Code, sec. 22-376; Ordinance 01-11-542 adopted 11/19/01)

Sec. 10.06.307 Permit; penalty

(a) Permit required; transferability. It shall be unlawful for any person to operate a food service or food processing establishment within the city or its police jurisdiction who does not possess a valid permit issued to him by the regulatory authority. Only a person who complies with the requirements of this article shall be entitled to receive and retain such a permit. Permits shall not be transferable from one person to another person or place. A valid permit shall be posted in every establishment. Permits for temporary establishments shall be issued for a period of time not to exceed 14 days. Seasonal permits may be issued for a period not to exceed 60 days.

(b) Review of plans. Whenever a food service or food processing establishment is constructed or extensively remodeled, and whenever an existing structure is converted to use as a food service operation, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the regulatory authority for review and approval before construction is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of this article. No food service or food processing establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority. A pre-operational inspection will be conducted in each food service establishment or food processing establishment prior to the start of operations to determine compliance with approved plans and with the requirements of this article.

(c) Application for permit. Any person desiring to operate a food service or food processing establishment shall make written application and pay the appropriate fee for a permit provided by the regulatory authority. Such application shall include the applicant's full name and post office address and whether such applicant is an individual, firm, or corporation, and if a partnership, the name of the partners, together with their addresses shall be included; the location and type of the proposed establishment; and the signature of the applicant or applicants. If the application is for a temporary or seasonal establishment, permit fees and applications must be received 48 hours prior to the event; it shall also include the inclusive dates of the proposed operation.

(d) Permit fees.

- (1) Food establishment annual permit fees shall be reviewed, set, and adopted by ordinance of the city council on a regular basis.
- (2) No fee shall be charged to any food establishment owned and operated by a governmental agency, independent school district, institution of purely public charity or church; however, such establishments shall comply with all other requirements of this article.

(e) Inspection; issuance of permit. Upon receipt of such an application, the regulatory authority shall make an inspection of the establishment to determine compliance with the provisions of this article. When inspection reveals that the applicable requirements of this article have been met, a permit shall be issued to the applicant by the regulatory authority.

(f) Suspension of permit.

- (1) Permits may be suspended temporarily by the regulatory authority for failure of the holder to comply with the requirements of this section.
- (2) Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this section, the permit holder or operator shall be notified in writing that the permit is, upon service of this notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the permit holder within five days.
- (3) Notwithstanding the other provisions of this article, whenever the regulatory authority finds unsanitary or other conditions in the operation of the establishment which in his judgment constitute a substantial hazard to the public health, he may, without warning, notice or hearing, issue a written notice to the permit holder or operator citing such conditions, specifying the corrective action to be taken, and if deemed necessary such order shall state that the permit is immediately suspended, and all food operations are immediately to be suspended. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the regulatory authority shall be afforded a hearing as soon as possible.

(g) Reinstatement of suspended permit. Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of the reinstatement of the permit. Within ten days following receipt of a written request, including a statement signed by the applicant that in his opinion the condition causing the suspension of the permit has been corrected, the regulatory authority shall make a reinspection. If the applicant is complying with the requirements of this article, the permit shall be reinstated.

(h) Revocation of permit. For serious or repeated violations of any of the requirements of this article, or for interference with the regulatory authority in the performance of his duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the regulatory authority. Prior to such action, the regulatory authority shall notify the permit holder in writing, stating the reasons for which the permit shall be permanently revoked at the end of five days following service of this notice, unless a request for a hearing is filed with the regulatory authority by the permit holder within such five-day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

(i) Penalty. Any person violating any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in the sum of not less than \$1.00 nor more than \$2,000.00 for each conviction. In the case of a continuing violation, each day during which an individual violates this article, it shall be construed as separate offenses as provided in section 1.01.009. Additionally, the city shall be entitled to pursue other civil and criminal remedies to which it is entitled under law.

(j) Hearings. The hearing provided for in this section shall be conducted by a permit appeals committee at a time and place designated by the regulatory authority. The permit holder shall be notified of such hearing no less than five days prior to the hearing date. The permit appeals committee shall be appointed by the regulatory authority and be comprised of the city health specialist, the city chief building official and one other member engaged in food establishment work, such as a restaurant owner, cafeteria manager, grocery store operator, and the like. The regulatory authority shall maintain a list of such persons from which members to the permit appeals committee may be appointed on a rotating basis. Based upon the record of such hearing, the regulatory authority shall, upon the affirmative vote of the majority, make a finding to sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the regulatory authority within five days after the date of the hearing.

(1993 Code, sec. 113.131; 2006 Code, sec. 22-377; Ordinance 01-11-542 adopted 11/19/01)

State law reference—Authority to require permit for food service establishment, etc., V.T.C.A., Health and Safety Code, sec. 437.004.

CHAPTER 11

RESERVED

CHAPTER 12

LAW ENFORCEMENT AND COURTS

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ARTICLE 12.01 GENERAL PROVISIONS**(Reserved)****ARTICLE 12.02 MUNICIPAL COURT*****Division 1. Generally****Sec. 12.02.001 Established; jurisdiction**

There is hereby created and established a court to be known as the municipal court of the city, which court shall have jurisdiction of all criminal cases arising under this code and any other ordinances of the city and concurrent jurisdiction with the justice of the peace in all criminal cases arising under the laws of the state, where such offenses are committed either within the territorial limits of the city or in an area lying outside the corporate limits of the city in which area the city is authorized to exercise its police powers and where the punishment is by fine only and the maximum of said fine does not exceed the maximum fine authorized to be imposed by municipal courts under the laws of this state or any amendments thereto. (1984 Code, sec. 5-1-1; 1993 Code, sec. 36.01; 2006 Code, sec. 26-1; Ordinance 202 adopted 5/2/83)

State law reference—Jurisdiction of municipal courts, V.T.C.A., Government Code, sec. 29.003

Sec. 12.02.002 Appointment and term of judge

Subject to the appropriate provisions in the city charter, the municipal court shall be presided over by a judge to be known as the judge of the municipal court, who shall be appointed by resolution adopted by the city council. The term of office of the judge of the municipal court shall be for two years. (1984 Code, sec. 5-1-2; 1993 Code, sec. 36.02; 2006 Code, sec. 26-2; Ordinance 202 adopted 5/2/83)

Charter reference—Appointment and term of judges, sec. 4.03(2).

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. 12.02.003 Appointment of clerk and deputy clerks

The city secretary or such other person appointed by the city council shall be the clerk of the municipal court. The city council may also appoint deputy clerks to serve as clerks of the municipal court. (1984 Code, sec. 5-1-3; 1993 Code, sec. 36.03; 2006 Code, sec. 26-3; Ordinance 202 adopted 5/2/83)

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

Sec. 12.02.004 Compensation of judges and clerks

The judges of the municipal court and the clerks of the municipal court shall be paid such compensation as shall be determined from time to time by the city council. (1984 Code, sec. 5-1-4; 1993 Code, sec. 36.04; 2006 Code, sec. 26-4; Ordinance 202 adopted 5/2/83)

Secs. 12.02.005–12.02.030 Reserved

* **Charter reference**—Municipal court, sec. 4.03.

State law references—Municipal courts generally, V.T.C.A., Government Code, sec. 29.001 et seq.; jurisdiction of municipal courts, V.T.C.A., Government Code, sec. 29.003; procedures for processing cases within criminal jurisdiction of municipal court, Tex. Code Crim. Proc. ch. 45.

Division 2. Fines, Costs and Special Expenses*

Sec. 12.02.031 Fee for persons requesting driving safety course

The municipal court of the city may, pursuant to provisions of amendment to the Uniform Act Regulating Traffic on Highways, require the person requesting a driving safety course to pay a fee in an amount in accordance with state law, including any special fees authorized by statute, this code or any other applicable ordinance of the city to cover the costs of administering such course. (1993 Code, sec. 36.15(A); 2006 Code, sec. 26-31(a); Ordinance 275 adopted 10/15/87; Ordinance adopting 2015 Code)

State law reference—Additional court fees for driving safety course, V.T.C.A., Government Code, sec. 103.021.

Sec. 12.02.032 Building security fund

(a) There is hereby created and established a municipal court building security fund (the “fund”) pursuant to Vernon’s Ann. C.C.P. art. 102.017 (Code of Criminal Procedure).

(b) The municipal court of the city (the “municipal court”) is hereby authorized and required to assess a municipal court building security fee (the “fee”) in the amount established in the fee schedule against all defendants convicted in a trial of a misdemeanor offense by the municipal court. Each misdemeanor conviction shall be subject to a separate assessment of the fee.

(c) The municipal court clerk is hereby authorized and required to collect the fee and to pay the fee to the treasury of the city. All fees so collected and paid over to the treasury of the city shall be segregated in the fund.

(d) The fund shall be used only for the purpose of financing the purchase of security devices and/or services for the building or buildings housing the municipal court of the city. “Security devices and/or services” shall include any and all items described in Vernon’s Ann. C.C.P. art. 102.017(d-1) (Code of Criminal Procedure).

(e) The fund shall be administered by or under the direction of the city council.

(1993 Code, sec. 36.25; 2006 Code, sec. 26-61; Ordinance 386 adopted 1/15/96; Ordinance adopting 2015 Code)

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

Sec. 12.02.033 Technology fund

(a) Established.

(1) There is hereby created and established a municipal court technology fund, herein known as “the fund,” pursuant to Vernon’s Ann. C.C.P. art. 102.0172 (Code of Criminal Procedure).

(2) The municipal court technology fund may be maintained in an interest-bearing account and may be maintained in the general revenue account.

(b) Amount of fee; assessment and collection.

(1) The municipal court technology fund fee shall be in the amount established in the fee schedule.

* **State law references**—Municipal court fines, costs and special expenses, Tex. Code Crim. Proc. art. 45.203; costs paid by defendants, Tex. Code Crim. Proc. ch. 102; court costs on conviction, V.T.C.A., Government Code, sec. 102.021; additional court costs on conviction in municipal court, V.T.C.A., Government Code, sec. 102.121; contracts for collection services, Tex. Code Crim. Proc. art. 103.0031.

- (2) The municipal court technology fund fee shall be assessed and collected from the defendant upon conviction for a misdemeanor offense in the municipal court as a cost of court. A defendant is considered convicted if:
 - (A) A sentence is imposed on the person;
 - (B) The person is placed on community supervision, including deferred adjudication community supervision; or
 - (C) The court defers final disposition of the person's case.
- (3) The municipal court technology fund fee shall be collected on conviction for an offense committed on or after September 1, 1999.
- (4) The clerk of the court shall collect the municipal court technology fund fee and pay the fee to the treasury of the city.
- (c) Use of fund; administration.
 - (1) The municipal court technology fund shall be used only to finance the purchase of technological enhancements for the municipal court of the city, as provided by Vernon's Ann. C.C.P. art. 102.0172 (Code of Criminal Procedure)
 - (2) The municipal court technology fund shall be administered by or under the direction of the city council.

(1993 Code, secs. 36.35–36.37; 2006 Code, secs. 26-81–26-83; Ordinance 99-10-468 adopted 10/4/99; Ordinance adopting 2015 Code)

State law reference—Authority of municipality to establish municipal court technology fund, Tex. Code Crim. Proc. art. 102.0172.

Sec. 12.02.034 Juvenile case manager fund

- (a) A juvenile case manager fund is hereby created and shall be administered by the treasurer of the city. The juvenile case manager fund shall be used only to pay the salary and benefits of the juvenile case managers employed by the municipal court of the city, in accordance with the provisions of V.T.C.A., Code of Criminal Procedure article 102.0174, as amended.
- (b) Any defendant convicted in the municipal court of the city of a misdemeanor offense that occurred on or after May 1, 2009, shall pay a juvenile case manager fee in the amount established in the fee schedule as a cost of the court. The term “convicted” under V.T.C.A., Code of Criminal Procedure art. 102.0174 means:
 - (1) A sentence is imposed on the defendant;
 - (2) The defendant receives deferred disposition, including deferred proceedings under [V.T.C.A., Code of Criminal Procedure] article 45.052 or 45.053; or
 - (3) The defendant receives deferred adjudication in county court.
- (c) The judges of the municipal court are authorized to waive the juvenile case manager fee in a case of financial hardship.

(d) The clerks of the municipal court of the city shall collect the juvenile case manager fee and shall pay such costs to the treasurer for the city for deposit into the juvenile case manager fund for payment of the salary and benefits of a juvenile case manager.

(2006 Code, sec. 26-71; Ordinance 09-04-791, sec. 1, adopted 4/20/09; Ordinance adopting 2015 Code)

State law references—Authority to employ juvenile case managers and reimbursement, Tex. Code Crim. Proc. art. 45.056; juvenile case manager fund, Tex. Code Crim. Proc. art. 102.0174.

ARTICLE 12.03 POLICE*

Division 1. Generally

Secs. 12.03.001–12.03.030 Reserved

Division 2. Police Department

Sec. 12.03.031 Established

There is hereby created and established a police department for the city. The office of marshal is abolished and all the duties and authority of said office are hereby conferred upon the chief of police, who shall hereafter be the chief police officer of the city. (1984 Code, sec. 4-1-1; 1993 Code, sec. 33.01; 2006 Code, sec. 42-21; Ordinance 66 adopted 5/6/75)

Sec. 12.03.032 Powers and duties of chief of police and police officers

The chief of police shall be the chief police officer of the city and shall operate directly under the city manager. The chief of police shall have like powers with the sheriff of the county to execute search warrants or other writs. The chief of police shall be active in quelling riots, disorders and disturbances of the peace and violations of every kind within the limits of the city, and shall take into custody all persons thus offending, and may take good and sufficient bail for appearances before the municipal court of any person charged with an offense which the municipal court has jurisdiction to try. In the prevention and suppression of crime and in the arrest of offenders, the chief of police shall have the same powers as the sheriff of a county under the laws of the state. The chief of police shall perform such other duties and have such other powers as the governing body may by resolution or ordinance require or confer, or as may be prescribed by state law. It shall be the duty of any police officer to be obedient to the orders of the chief of police and all police officers shall have all of the rights, privileges, authority and duties of a peace officer as are conferred by the laws of the state. (1984 Code, sec. 4-1-7; 1993 Code, sec. 33.03; 2006 Code, sec. 42-23; Ordinance 66 adopted 5/6/75; Ordinance adopting 2015 Code)

Sec. 12.03.033 Membership; compensation

The police department of the city shall consist of one chief of police and such additional police officers as the city council may from time to time deem necessary and proper. The chief of police and all police officers shall be employees of the city, shall be appointed by the city council, shall hold such position at the pleasure of the city council, and shall receive such compensation as the city council may from time to time determine. (1984 Code, sec. 4-1-2; 1993 Code, sec. 33.04; 2006 Code, sec. 42-24; Ordinance 66 adopted 5/6/75)

Sec. 12.03.034 Qualifications

The chief of police and all police officers shall be persons possessing all of the qualifications prescribed from time to time by the city council. (1984 Code, sec. 4-1-3; 1993 Code, sec. 33.05; 2006 Code, sec. 42-25; Ordinance 66 adopted 5/6/75)

* **State law references**—Police force in home-rule municipality, V.T.C.A., Local Government Code, sec. 341.003; commission on law enforcement officer standards and education, V.T.C.A., Occupations Code, ch. 1701.

Sec. 12.03.035 Oath

The chief of police and all police officers appointed to the police department shall take and prescribe to the official oath required by the constitution of the state:

I, _____, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of this State, so help me God.

(1984 Code, sec. 4-1-4; 1993 Code, sec. 33.06; 2006 Code, sec. 42-26; Ordinance 66 adopted 5/6/75)

Sec. 12.03.036 Authority of peace officers

The chief of police and each police officer appointed to the police department shall have and exercise all the rights, privileges, authority and duties of a peace officer conferred by the laws of the state, this code and any applicable ordinances of the city. After taking and subscribing to the oath of office and giving bond as provided for herein, a commission shall be issued to the chief of police or each police officer appointed to the police department. (1984 Code, secs. 4-1-5, 4-1-8; 1993 Code, sec. 33.07; 2006 Code, sec. 42-27; Ordinance 66 adopted 5/6/75)

Secs. 12.03.037–12.03.070 Reserved**Division 3. Police Reserve Force*****Sec. 12.03.071 Established**

There is hereby established a police reserve force to be known as the Murphy Police Reserve Force. The city police reserve force shall otherwise be governed by V.T.C.A. Local Government Code sec. 341.012, as amended. (2006 Code, sec. 42-51; Ordinance 06-01-688, sec. 2 (33.20), adopted 1/3/06)

Sec. 12.03.072 Appointment of members by chief of police

The chief of police of the city is hereby authorized to appoint up to ten members to the city police reserve force. All city police reserve personnel shall serve at the will of the chief of police, whose decisions regarding any member of the city police reserve force shall be final. (2006 Code, sec. 42-52; Ordinance 06-01-688, sec. 2 (33.21), adopted 1/3/06; Ordinance adopting 2015 Code)

Sec. 12.03.073 Approval of members by city council; qualifications; carrying weapon

(a) The city police reserve force shall be composed of personnel who reside in Collin, Dallas, or Rockwall County, Texas.

(b) On approval of the appointment by the city council of a member of the city police reserve force who is not a peace officer as described by V.T.C.A., Code of Criminal Procedure art. 2.12, the person appointed may carry a weapon only when authorized to do so by the chief of police and only when discharging official duties as a peace officer.

(c) On approval of the appointment by the city council of a member of the city police reserve force who is a peace officer as described by V.T.C.A., Code of Criminal Procedure art. 2.12, the chief of police may authorize the person appointed to carry a weapon or act as a peace officer at all times, regardless of whether the person is

* **State law reference**—Authority to provide for police reserve force, V.T.C.A., Local Government Code, sec. 341.012.

engaged in the actual discharge of official duties, or may limit the authority of the person to carry a weapon or act as a peace officer to only those times during which the person is engaged in the actual discharge of official duties.

(2006 Code, sec. 42-53; Ordinance 06-01-688, sec. 2 (33.22), adopted 1/3/06; Ordinance adopting 2015 Code)

Sec. 12.03.074 Supervision by chief of police; termination of membership

Members of the city police reserve force shall function under the direction and control of the chief of police and shall serve as peace officers during actual discharge of official duties. The chief of police may terminate such membership at any time, with or without cause, at his sole discretion. Any member wishing to resign from the organization shall tender his resignation to the chief of police and surrender his I.D. card, badge, uniform and any property in his possession which belongs to the city. (2006 Code, sec. 42-54; Ordinance 06-01-688, sec. 2 (33.23), adopted 1/3/06)

Sec. 12.03.075 Application for membership

The chief of police shall prescribe an application form for membership which shall include a place for a complete set of fingerprints of the applicant. (2006 Code, sec. 42-55; Ordinance 06-01-688, sec. 2 (33.24), adopted 1/3/06)

Sec. 12.03.076 Training

Prior to performing any duties as a reserve police officer, each police reserve applicant shall receive training from the police department in accordance with the requirements of the state commission on law enforcement officer standards and education and shall apply for certification by said commission as a reserve police officer. Upon approval by the city council, a reserve police officer commission may be issued to each approved city police reserve applicant. The cost of any such training may be paid by the city. (2006 Code, sec. 42-56; Ordinance 06-01-688, sec. 2 (33.25), adopted 1/3/06)

Sec. 12.03.077 Compensation and medical expenses

Members of the city police reserve force serve without compensation. The city may provide hospital and medical assistance to a member of the city police reserve force who sustains injury in the course of performing official duties in the same manner as provided by the city for a full-time police officer. Nothing in this division shall be construed to authorize or permit a member of the city police reserve force to become eligible for participation in any pension fund created pursuant to state statute to which regular officers may become a member by payroll deductions or otherwise. (2006 Code, sec. 42-57; Ordinance 06-01-688, sec. 2 (33.26), adopted 1/3/06)

State law reference—Hospital and medical assistance and death benefits for police reserve force, V.T.C.A., Local Government Code, sec. 142.003.

Sec. 12.03.078 Identification

An identification card and such other insignia or evidence of identity as the chief of police may prescribe shall be issued to each member, who must carry the card and other identification at all times while on duty, and he must surrender them upon the termination of his membership. (2006 Code, sec. 42-58; Ordinance 06-01-688, sec. 2 (33.27), adopted 1/3/06)

Sec. 12.03.079 Diminishing or expanding membership

The chief of police may by order diminish or expand the membership of the city police reserve force as emergency may require, within the limit hereinbefore established. (2006 Code, sec. 42-59; Ordinance 06-01-688, sec. 2 (33.28), adopted 1/3/06)

Sec. 12.03.080 Uniforms and badges

The chief of police shall prescribe the uniform and badges for the members of the city police reserve force and direct the manner in which the same shall be worn. The city council may authorize payment for such uniforms by the city. (2006 Code, sec. 42-60; Ordinance 06-01-688, sec. 2 (33.29), adopted 1/3/06)

Sec. 12.03.081 Duties

(a) Members of the city police reserve force shall serve at the discretion of the chief of police and may be called into service at any time the chief of police considers it necessary to have additional officers to preserve the peace and enforce the law.

(b) The chief of police may establish rules and regulations to govern the city police reserve force and may direct members of the city police reserve force to obey the instructions of regular police officers.

(c) Reserve police officers shall act only in a supplementary capacity to the regular police force and shall in no case assume the full-time duties of regular police officers without first complying with all requirements for such regular police officers.

(d) A member of the city police reserve force who is not a peace officer as described by V.T.C.A., Code of Criminal Procedure art. 2.12, may act as a peace officer only during the actual discharge of official duties.

(2006 Code, sec. 42-61; Ordinance 06-01-688, sec. 2 (33.30), adopted 1/3/06)

Sec. 12.03.082 Impersonation of police reserve officer

It shall be unlawful for any person, other than a duly authorized city police reserve officer, to wear a police reserve uniform or badge or to display or carry a police reserve badge or identification card or otherwise represent himself to be a member of the city police reserve force. (2006 Code, sec. 42-62; Ordinance 06-01-688, sec. 2 (33.31), adopted 1/3/06)

CHAPTER 13

RESERVED

CHAPTER 14

OFFENSES AND NUISANCES

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ARTICLE 14.01 GENERAL PROVISIONS***Sec. 14.01.001 Consumption of alcoholic beverage or possession of open container near school**

(a) Offenses. A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a facility that is a public or private school, including a parochial school, that provides all or any part of pre-kindergarten through 12th grade.

(b) Exceptions. This section does not apply to the possession of an open container or the consumption at an event duly authorized by appropriate authorities and held in compliance with all other applicable provisions of this code.

(c) Definitions. The definitions in section 6.02.001 shall be applicable for purposes of this section.

(d) Penalty. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty or fine not to exceed \$500.00 for each offense.

(2006 Code, secs. 10-5, 10-99; Ordinance 04-12-630, sec. 2 (110.05, 110.99), adopted 12/20/04)

Sec. 14.01.002 Destroying, damaging or defacing public or private property

(a) It shall be unlawful for a person to intentionally, maliciously, or recklessly destroy, damage or deface in any way any public or private property, including:

- (1) Public or private buildings, fences or trees;
- (2) Public streets, fire hydrants, pumps, fountains, inlets, manholes or sewer ventilators;
- (3) Telephone or telegraph wires or electric wires of any kind, or the poles sustaining or attaching them;
- (4) Statues, monuments or plaques;
- (5) Official notices or signs posted by the state, the city or any public agency;
- (6) Any traffic sign or highway or street information sign, including street signs;
- (7) Any cemetery, cemetery marker or monument, plot or fence.

(b) It shall be unlawful for a person to intentionally, maliciously or recklessly destroy, damage or deface in any way any public or private property, by:

- (1) Extinguishing or diminishing the light from any public streetlight;
- (2) Obstructing the mouth of any sewer or main or removing, possessing or selling any inlet, manhole cover or sewer ventilator or any part of a sewer or drain without written authorization from the city;
- (3) Posting any sign, placard, or circular upon any pole used for attaching or sustaining electric wires;
- (4) Removing any protection which is placed across freshly paved or repaved streets;

* **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 home-rule municipality to define and prohibit nuisances, V.T.C.A., Local Government Code, sec. 217.042; nuisances and general sanitation, V.T.C.A., Health and Safety Code, sec. 341.011 et seq.

- (5) Throwing stones, bricks or other missiles into any street, yard, vacant lot, public park, square or market;
- (6) Locking or unlocking without authority or breaking open any gates of any public square, park or playground of the city;
- (7) Placing any obstruction within 15 feet of any fire hydrant or opening any valve box or manhole cover controlling access to or use of a public utility or underground conduit;
- (8) Using any city facility to enter into city property without authority.

(1993 Code, sec. 130.01; 2006 Code, sec. 46-21; Ordinance 280 adopted 6/2/88; Ordinance 315, adopted 5/16/90)

Sec. 14.01.003 Urinating or defecating in public

- (a) A person commits an offense if the person urinates or defecates:
 - (1) On public property or in a public place; and
 - (2) In public view.
- (b) It is a defense to prosecution under this section if the person was in a restroom.

(2006 Code, sec. 46-22; Ordinance 07-07-728, sec. 2, adopted 7/16/07; Ordinance adopting 2015 Code)

ARTICLE 14.02 MINORS

Division 1. Generally

Secs. 14.02.001–14.02.030 Reserved

Division 2. Curfew*

Sec. 14.02.031 Definitions

For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Curfew hours.

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day;
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

Emergency. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment. Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

* **State law references**—Review of juvenile curfew order or ordinance, V.T.C.A., Local Government Code, sec. 370.002; children taken into custody for violation of juvenile curfew or order, Tex. Code Crim. Proc., art. 45.059.

Guardian.

- (1) A person who under court order is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

Minor. Any person under seventeen (17) years of age.

Operator. Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent. A person who is:

- (1) A natural parent, adoptive parent, or stepparent of another person; or
- (2) At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

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, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain. To:

- (1) Linger or stay; or
- (2) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

Serious bodily injury. Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2006 Code, sec. 46-61; Ordinance 06-06-695, sec. 2 (130.25), adopted 6/19/06; Ordinance 09-05-793, sec. 2, adopted 5/4/09; Ordinance 12-05-913, sec. 2, adopted 5/1/12; Ordinance 15-05-992, sec. 2, adopted 5/19/15)

Sec. 14.02.032 Offenses

- (a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.
- (b) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (c) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(2006 Code, sec. 46-62; Ordinance 06-06-695, sec. 2 (130.26), adopted 6/19/06; Ordinance 09-05-793, sec. 2, adopted 5/4/09; Ordinance 12-05-913, sec. 2, adopted 5/1/12; Ordinance 15-05-992, sec. 2, adopted 5/19/15)

Sec. 14.02.033 Defenses

- (a) It is a defense to prosecution under section 14.02.032 that the minor was:
- (1) Accompanied by the minor's parent or guardian;
 - (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (3) In a motor vehicle involved in interstate travel;
 - (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (5) Involved in an emergency;
 - (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (7) Attending a recreational or social activity supervised by adults who take responsibility for the minors; and, sponsored by a school, the city, or a nonprofit organization that sponsors or provides recreational or social activities for minors; or, going to and returning home therefrom without any detour or stop;
 - (8) Attending a religious service, activity, or recreational or social activity sponsored or provided by a religious organization, or going to and returning therefrom without any detour or stop;
 - (9) Exercising First Amendment Rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (10) Married or had been married or had disabilities of minority removed in accordance with chapter 31 of the Texas Family Code, as amended.
- (b) It is a defense to prosecution under section 14.02.032(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(2006 Code, sec. 46-63; Ordinance 06-06-695, sec. 2 (130.27), adopted 6/19/06; Ordinance 09-05-793, sec. 2, adopted 5/4/09; Ordinance 12-05-913, sec. 2, adopted 5/1/12; Ordinance 15-05-992, sec. 2, adopted 5/19/15)

Sec. 14.02.034 Enforcement

Before taking any enforcement action under this division, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this division unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 14.02.033 is present. (2006 Code, sec. 46-64; Ordinance 06-06-695 (130.28), sec. 2, adopted 6/19/06; Ordinance 09-05-793, sec. 2, adopted 5/4/09; Ordinance 12-05-913, sec. 2, adopted 5/1/12; Ordinance 15-05-992, sec. 2, adopted 5/19/15)

Sec. 14.02.035 City manager's report on effectiveness of regulations

Before the third anniversary of the date of the adoption of this division, the city manager shall review this division, report to the city council, and make recommendations concerning the effectiveness of and need for this division. The city manager's report shall specifically include the following information:

- (1) The practicality of enforcing this division and any problems with enforcement identified by the police department;

- (2) The impact of this division on crime statistics, where available;
- (3) The number of persons successfully prosecuted for a violation of this division; and
- (4) The city's cost of enforcing this division.

(2006 Code, sec. 46-65; Ordinance 06-06-695, sec. 2 (130.29), adopted 6/19/06; Ordinance 09-05-793, sec. 2, adopted 5/4/09; Ordinance 12-05-913, sec. 2, adopted 5/1/12; Ordinance 15-05-992, sec. 2, adopted 5/19/15)

Sec. 14.02.036 City council review of regulations

(a) Before the third anniversary of the date of the adoption of this division, and every third year thereafter, the city council, pursuant to section 370.002 of the Texas Local Government Code, as amended, shall:

- (1) Review this division's effects on the community and on the problems this division was intended to remedy;
- (2) Conduct public hearings on the need to continue this division; and
- (3) Abolish, continue or modify this division.

(b) Failure by the city council to act in accordance with this section shall cause this division to expire.

(2006 Code, sec. 46-66; Ordinance 06-06-695, sec. 2 (130.30), adopted 6/19/06; Ordinance 09-05-793, sec. 2, adopted 5/4/09; Ordinance 12-05-913, sec. 2, adopted 5/1/12; Ordinance 15-05-992, sec. 2, adopted 5/19/15)

Sec. 14.02.037 Penalty

(a) A person who violates a provision of this division is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.00.

(b) When required by section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 14.02.032(a) and shall refer the minor to juvenile court.

(2006 Code, sec. 46-67; Ordinance 06-06-695, sec. 2 (130.99), adopted 6/19/06; Ordinance 09-05-793, sec. 2, adopted 5/4/09; Ordinance 12-05-913, sec. 2, adopted 5/1/12; Ordinance 15-05-992, sec. 2, adopted 5/19/15)

ARTICLE 14.03 WEAPONS*

Sec. 14.03.001 Discharging firearms

(a) Prohibited. It shall be unlawful for any person to fire or shoot or cause to be fired or shot any firearm, rifle, shotgun, automatic rifle, revolver, pistol or any other weapon designed for the purpose of firing or discharging a shell or cartridge, whether such shell or cartridge is blank or live ammunition, or to fire, shoot, discharge or cause to be fired, shot or discharged any air rifle, air pistol or pellet gun of any description, by whatever name known, that is capable of discharging a pellet or any solid object by means of compressed air, gas, springs or other means, within the corporate limits of the city.

* **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.

(b) Exceptions. This section shall not apply to:

- (1) Law enforcement peace officers when acting in the performance of their official duties;
- (2) Shooting ranges which are operated by the police department, or under the supervision of some department of the city, or which are privately or individually operated if approved by the police department;
- (3) The use of blank cartridges for a show or theatrical production, for signal or ceremonial purposes in athletics or sports or by military organizations;
- (4) Self-defense or justifiable or excusable homicide situations;
- (5) Justifiable or excusable emergency situations where such action is necessary to protect life, health or property. Included herein (but not limited to) is protection of property, both animate (such as persons, pets, poultry and livestock) and inanimate (such as furniture, buildings and accessories) against predators, wild animals, and stray and marauding animals.

(1984 Code, secs. 9-3-1, 9-3-2; 1993 Code, secs. 130.15, 130.16; 2006 Code, secs. 46-41, 46-42; Ordinance 82, adopted 11/2/76; Ordinance 367, adopted 9/12/94)

ARTICLE 14.04 NOISE*

Sec. 14.04.001 Definitions

Authorized emergency vehicle. Vehicles of the fire department, police vehicles, public and private ambulances for which permits have been issued by the state board of health, emergency vehicles of municipal departments or public service corporations as are designated or authorized by the governing body of an incorporated city, private vehicles operated by volunteer fireman or certified emergency medical employees or volunteers while answering a fire alarm or responding to a medical emergency, and vehicles operated by blood banks or tissue banks, accredited or approved under the laws of the state or the United States, while making emergency deliveries of blood, drugs or medicines, or organs.

Decibel. A logarithmic unit of measure used in describing the amplitude of sound, denoted as dB.

Device. Any mechanism which is intended to produce, or actually produces, noise when operated or handled.

Director. The director of the community development department or his/her designee.

Emergency work. Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from an imminent danger.

Gross combination weight rating (GCWR). The value specified by the manufacturer as the recommended maximum loaded weight of a combination vehicle in a case where trailer and tractor are separable.

Gross vehicle weight rating (GVWR). The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle.

Motor vehicle. Any vehicle propelled by mechanical power, such as, but not limited to, any passenger car, truck, truck-trailer, semitrailer, camper, motorcycle, minibike, go-cart, dune buggy, or racing vehicle.

Muffler. Any apparatus consisting of baffles, chambers, or acoustical absorbing material whose primary purpose is to transmit liquids or gases while causing a significant reduction in sound emission.

* **State law reference**—Disorderly conduct, V.T.C.A., Penal Code, sec. 42.01.

Noise. Any sound which is unwanted or which causes, or tends to cause, an adverse psychological or physiological effect on human beings.

Person. Any individual, firm, association, partnership, corporation or any other entity, public or private.

Property boundary. An imaginary line at the ground surface and its vertical extension which separates the real property owned or occupied by one person from that owned or occupied by another person. In a multifamily dwelling or other multi-tenant structure, the property boundary shall be the wall between a noise source and a neighboring tenant.

Public and private projects. Any activity other than the construction or alteration of a single-family dwelling that requires a building permit from the building inspection department.

Public right-of-way. Any street, avenue, boulevard, highway, alley, or similar place, which is owned or controlled by a public governmental entity.

Public service work. Work conducted by a governmental entity in the interest of the community.

Sound. A temporal or spatial oscillation in pressure, or other physical quantity, in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

Sound level meter. An instrument, which includes a microphone, amplifier, RMS detector and integrator, time averager, output meter and weighting networks, that is sensitive to pressure fluctuations. The instrument reads sound pressure level when properly calibrated with an acoustical calibrator accurate to +1 dB and is of type I or type II as specified in ANSI S1.4-1971 or the latest approved revision thereof.

Stationary sound source. Any device or motor vehicle, fixed or movable, which is located or used on property other than a public right-of-way.

Use district. Those zoning districts established by the city zoning ordinance.

Vibration. A temporal and spatial oscillation of displacement, velocity or acceleration in a solid material.

Vibration perception threshold. The minimum ground or structure-borne vibrational motion necessary to cause a person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

(2006 Code, sec. 30-52; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.002 Administration of program

The noise control program required by this article shall be administered by the community development department. (2006 Code, sec. 30-53; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.003 Noise measurement

Sound level measurements shall be made with a sound level meter, type II or better, using the A-weighting network, in accordance and conforming with the noise measurement standards promulgated by the American National Standards Institute. (2006 Code, sec. 30-54; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.004 Responsibility for enforcement; citizen complaints

The police department shall have primary enforcement responsibility for the provisions of this article. In addition, any private citizen may enforce compliance with this article by filing a complaint in the municipal

court of the city, which complaint shall be prosecuted forthwith. (2006 Code, sec. 30-61; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.005 Authority to make inspections and tests

In order to implement and enforce this article, and for the general purpose of noise and vibration abatement and control, the duly appointed and authorized representative of the community development department, under the direct supervision of the director, shall have the power to make necessary inspections and tests with proper authorization or permission from the owner on any private or public property or place and/or stop any motor vehicle or motorcycle operated on a public right-of-way or public space reasonably suspected of violating any provisions of this article and issue a notice of violation and/or abatement order. (2006 Code, sec. 30-62; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.006 City contracts to be conditioned upon compliance

Any written agreement, purchase order or instrument whereby the city is committed to the expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination of the foregoing shall not be entered into unless such agreement, purchase order, or instrument contains provisions requiring that equipment and activities which are subject to the provisions of this article will be operated, constructed, conducted, or manufactured without causing violation of this article. (2006 Code, sec. 30-63; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.007 Penalty

Any person, firm, company, partnership, corporation or association violating any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in the sum of not more than the maximum amount permitted by law for each such conviction. (2006 Code, sec. 30-64; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.008 Prohibited noise generally

It shall be unlawful for any person to make, cause to be made or allow any unreasonably loud, disturbing noise in the city which is offensive to the ordinary sensibilities of inhabitants of the city, which noise renders the enjoyment of life or property uncomfortable or interferes with the public peace and comfort. (2006 Code, sec. 30-51; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.009 Limitations on environmental sound levels

It shall be a violation of this article for any person to operate or permit to be operated any stationary source or sources of sound which create or creates a sound level, as measured in decibels, in any residential use zone or within 300 feet of any residential use zone greater than 50 decibels between the hours of 9:00 p.m. and 7:00 a.m. the following day. It shall also be a violation of this article for any person to operate or permit to be operated any stationary source or sources of sound which create or creates a sound level, as measured in decibels, in any commercial use zone greater than 60 decibels between the hours of 9:00 p.m. and 7:00 a.m. the following day. For the purpose of enforcing these provisions, a measurement period shall not be less than ten minutes or more than 30 minutes. When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundary and within the most restrictive land use category. (2006 Code, sec. 30-55; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.010 Use of loudspeakers or amplifiers restricted

(a) It shall be unlawful for any person to use or operate, or cause to be used or operated, any mechanical or electrical device, machine, apparatus or instrument to intensify, amplify or reproduce the human voice or any other sound on any public street within the corporate limits of the city. The use of a loudspeaker is allowed with the approval of a block party permit.

(b) It shall be unlawful for a person to use or operate, or cause to be used or operated, any mechanical or electrical device, machine, apparatus or instrument to intensify, amplify or reproduce the human voice or to produce, or reproduce, intensify or amplify any other sound in any building or any premises in the city, whereby the sound therefrom is cast directly upon a public street or which is so placed or operated that the sounds therefrom can be heard to the material disturbance of travelers on any streets or public places, or of persons in the neighboring premises.

(c) Amplifiers used on vehicles operated by ice cream and snow-cone vendors to produce jingles or music to attract children as patrons are exempt from this article. However, such amplified jingles or music shall not be produced by said vendors in a loud manner offensive to the ordinary sensibilities of inhabitants of the city or in such a manner so as to interfere with public peace or comfort. Nor shall such amplified jingles or music be produced between 9:00 p.m. and 7:00 a.m. on the following morning.

(d) The use and operation of an amplified mechanical bell system in connection with the use and occupancy of a permanent church structure within the city is exempt from this section. However, such systems shall not be used or operated in a manner as to be offensive to ordinary sensibilities of inhabitants of the city or in such a manner as to interfere with the public peace and comfort.

(e) The purpose of this section is to prevent any noise in or near any public street which is reasonably calculated to disturb the peace and good order of the neighborhood or of persons owning, using or occupying property adjacent to such public streets.

(f) The city manager and/or his designee shall have the authority, upon request, to waive the application and enforcement of the provisions of this section and authorize the use or operation of any mechanical or electrical device, machine, apparatus or instrument to intensify, amplify or reproduce the human voice, or any other sound, on any public street within the corporate limits of the city or in any building or any premises in the city. In granting such permission, the city manager and/or his designee may impose whatever restrictions he deems necessary to ensure that the primary intent of this section shall be enforced. Under no circumstances may a permit be issued for the amplification of sound in a loud manner offensive to ordinary sensibilities of inhabitants of the city or in such a manner as to interfere with public peace and comfort.

(2006 Code, sec. 30-56; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.011 Prohibited acts

The following acts, among others, are declared to create loud, disturbing noises, in violation of this article, but such enumeration shall not be deemed to be exclusive:

- (1) Animals. Owning, keeping, possessing or harboring any animal or animals which, by frequent or habitual noise-making, unreasonably disturb or interfere with the use, comfort and repose of neighboring persons of ordinary sensibilities. The provisions of this article shall apply to all public and private facilities, including any animal shelter, commercial kennel, or veterinary clinic, which hold or treat animals.
- (2) Radios, television sets, musical instruments and similar devices. Operating or permitted to be operated any radio receiver set, musical instrument, television, phonograph, stereo, drum machine or device in such a manner as to unreasonably disturb or interfere with the peace, comfort and repose of neighboring persons of ordinary sensibilities.
- (3) Exterior loudspeakers. Operating or permitting to be operated any loudspeaker or sound-amplifying equipment in a fixed or movable position mounted on any vehicle in or upon any street, alley, sidewalk, park, place or public property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, or lectures, or transmitting music to any person or persons or assemblages of persons in such a manner as to be offensive to the ordinary sensibilities of inhabitants of the city and so as to interfere with the public peace and comfort or make the enjoyment of life or property uncomfortable.

- (4) Construction work. Operating or permitting to be operated any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances between the hours of 9:00 p.m. and 7:00 a.m. the following day.
- (5) Power equipment. Operating or permitting to be operated any power equipment in residential zones outdoors between the hours of 9:00 p.m. and 7:00 a.m. the following day.
- (6) Powered model or mechanical devices. Flying of model aircraft powered by internal combustion engines, whether tethered or not, or the flying or operating of model rocket vehicles or similar noise-producing devices, in a residential area between the hours of 9:00 p.m. and 7:00 a.m. the following day.
- (7) Refuse collection. The collection of garbage, waste, or refuse between the hours of 10:00 p.m. and 6:00 a.m. the following day in any area zoned residential, or within 300 feet of an area zoned residential.
- (8) Horns or signal devices on vehicles. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger signal, and as may be required by the law, if another vehicle is backing, starting or turning in such a way as to likely cause a collision.
- (9) Motor vehicles out of repair. The use of any automobile, motorcycle or other vehicle so out of repair, or so loaded, which emits or creates loud grating, grinding or rasping noise.
- (10) Motor vehicle exhaust. The discharge into the open air of the exhaust of any motor vehicle except through a muffler, or other device, which will effectively and efficiently prevent loud and unusual noises and annoying smoke.
- (11) Peddlers, hawkers and vendors. The raucous shouting or crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- (12) Concrete batch plants. The operation of concrete batch plants shall be limited to between the hours of 8:00 a.m. to 6:00 p.m. weekdays. Concrete batch plants are not allowed to operate on city designated holidays and weekends. A waiver of this requirement may be submitted to the city manager or his/her designee for review under special circumstances. Special circumstances could include, but are not limited to, the size of a concrete pour or extreme heat.

(2006 Code, sec. 30-57; Ordinance 09-05-798, sec. 2, adopted 5/18/09; Ordinance 11-01-869, sec. 2, adopted 1/4/11)

Sec. 14.04.012 Motor vehicles and motorcycles

- (a) Limitation of sound levels. No person shall drive or move or permit to be driven or moved a motor vehicle or combination of motor vehicles at any time on a public right-of-way under any conditions of grade, load, acceleration or deceleration in such a manner as to exceed the sound limits set forth in the table below for the appropriate category of motor vehicle. Measurements shall be made at a distance of 25 feet (seven and five-

tenths meters) for class 1 and class 2 vehicles, measured from the near side of the nearest lane being monitored at a height of at least four feet above the immediate surface.

Motor Vehicle and Motorcycle Sound Limits

<u>Vehicle Class</u>	<u>Posted Speed Limit 40 mph or Less</u>
Class 1. Any motor vehicle, motorcycle, or combination of vehicles towed by any motor vehicle with a GVWR or GCWR less than 10,000 pounds	80 dB
Class 2. Any motor carrier vehicle with a GVWR or GCWR of 10,000 pounds or more	96 dB

(b) Exhaust system modifications. No person shall operate or cause to be operated any motor vehicle unless the vehicle is equipped with an exhaust system which includes a tailpipe or resonator where the original vehicle design included a tailpipe and resonator. Such exhaust system shall be:

- (1) Equipped with a muffler which is in good working order (free of damage to the baffles contained in the muffler) and is in constant operation; and
- (2) Not equipped with any cutout, bypass or similar device.

(c) Tires. It is unlawful for any person to operate a motor vehicle in such manner as to cause or allow to be emitted squealing, screeching or other such sound from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, provided that sound resulting from emergency braking to avoid imminent danger shall be exempt from this section.

(d) Off-highway motor vehicles. No person shall operate or permit to be operated any motorized vehicle off a public right-of-way in such a manner as to exceed the sound levels as listed in this section at the receiving property boundary.

(2006 Code, sec. 30-58; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.013 Airport and aircraft operations

All airport, airpark, and/or aircraft operations within the city must be conducted in all respects in accordance with or pursuant to applicable laws and regulations of the U.S. Environmental Protection Agency and the U.S. Department of Transportation Federal Aviation Administration. (2006 Code, sec. 30-59; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

Sec. 14.04.014 Emergency or public service work and public utility operations

Sound caused in the performance of emergency or public service work, including public utility operations, acting to protect the health, safety, or welfare of the community shall not be subject to the provisions of this article. Nothing in this section, however, shall be construed to permit law enforcement, ambulance, fire or other public service personnel to make excessive noise in the performance of their duties when such sound is clearly unnecessary. (2006 Code, sec. 30-60; Ordinance 09-05-798, sec. 2, adopted 5/18/09)

ARTICLE 14.05 MOTOR VEHICLE IDLING***Sec. 14.05.001 Motor vehicle idling during ozone season**

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

Commercial passenger transportation. A mode of transportation provided by a bus or motor coach designed to accommodate more than ten passengers, including the operator, for compensation and that is powered by a primary propulsion engine, but specifically excluding the modes of railroad, light rail or taxicabs.

Idle. The operation of an engine in the operating mode where the engine is not engaged in gear.

Mechanical operations. The use of electrical tools or equipment in construction, maintenance or repair of facilities.

Motor vehicle. Any self-propelled device powered by an internal combustion engine and designed to operate with four or more wheels in contact with the ground, in or by which a person or property is or may be transported, and is required to be registered under V.T.C.A. Transportation Code, sec. 502.040.

Passenger transit operations. A regional mode of public transportation that is funded through a portion of sales tax for the region being served.

Primary propulsion engine. A gasoline- or diesel-fueled internal combustion engine that:

- (1) Is attached to a motor vehicle; and
- (2) Provides the power to propel the motor vehicle into motion and maintain motion.

(b) Idling prohibited. A person commits an offense if, at any time from April 1 through October 31 of any calendar year, he causes, suffers, allows or permits the primary propulsion engine of a motor vehicle to idle for more than five consecutive minutes when the motor vehicle is not in motion.

(c) Defenses. It is a defense to prosecution under this section that:

- (1) The motor vehicle has a gross vehicle weight rating of 14,000 pounds or less;
- (2) The motor vehicle was forced to remain motionless because of traffic conditions over which the operator had no control;
- (3) The motor vehicle was being used:
 - (A) By the United States military, national guard or reserve forces; or
 - (B) As an emergency or law enforcement motor vehicle;
- (4) The primary propulsion engine of the motor vehicle was providing a power source necessary for a mechanical operation of the vehicle other than:
 - (A) Propulsion; or
 - (B) Passenger compartment heating or air conditioning;

* **State law references**—Texas Clean Air Act, V.T.C.A., Health and Safety Code, ch. 382; authority of local governments, V.T.C.A., Health and Safety Code, sec. 382.111 et seq.

- (5) The primary propulsion engine of the motor vehicle was being operated for maintenance or diagnostic purposes;
 - (6) The primary propulsion engine of the motor vehicle was being operated solely to defrost a windshield;
 - (7) The primary propulsion engine of the motor vehicle was being used to supply heat or air conditioning necessary for passenger comfort or safety, if the vehicle:
 - (A) Was a school bus or was intended for commercial passenger transportation or passenger transit operations; and
 - (B) Did not idle more than 30 consecutive minutes;
 - (8) The primary propulsion engine of the motor vehicle was being used to provide air conditioning or heating necessary for employee health or safety while the employee was using the vehicle to perform an essential job function related to roadway construction or maintenance;
 - (9) The primary propulsion engine of the motor vehicle was being used as airport ground support equipment;
 - (10) The person charged with the offense was the owner of a motor vehicle that had been rented or leased to the person operating the vehicle at the time of the offense if the vehicle operator was not employed by the vehicle owner; or
 - (11) A motor vehicle when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period and is not within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available.
- (d) Penalty.
- (1) An offense under this section is punishable by a fine not to exceed \$500.00. Each instance of a violation of this section is a separate offense.
 - (2) Prosecution for an offense under this section does not preclude the use of other enforcement remedies or procedures that may be available to the city.

(2006 Code, sec. 46-90; Ordinance 09-11-819, sec. 2, adopted 11/9/09; Ordinance adopting 2015 Code)

Sec. 14.05.002 Noise from idling of commercial motor vehicles

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

Commercial motor vehicle. Any motor vehicle with a gross vehicle weight rating (GVWR) over 14,000 pounds.

Idle. The operation of a motor vehicle engine in operating mode where the engine is not engaged in gear.

- (b) Restrictions. A person commits an offense if he idles a commercial motor vehicle for more than five consecutive minutes at a location within the following:

- (1) A residential district as defined in section 30.01.006 of this code;
- (2) One thousand feet of a hospital; or

- (3) One thousand feet of a public school during its hours of operation.
- (c) Responsibility of person in control of premises. A person commits an offense if, on any premises that he owns or controls, he permits the idling of a commercial motor vehicle for more than five consecutive minutes at a location within the following:
- (1) A residential district as defined in section 30.01.006 of this code;
 - (2) One thousand feet of a hospital; or
 - (3) One thousand feet of a public school during its hours of operation.
- (d) Defenses. It is a defense to prosecution under subsections (b) and (c) of this section that the commercial motor vehicle:
- (1) Was idling in obedience to an official traffic-control device;
 - (2) Was idling while stopped in traffic;
 - (3) Was idling in obedience to a peace officer;
 - (4) Was idling while being repaired in an enclosed structure;
 - (5) Was idling in order to defrost a windshield;
 - (6) Was a school bus;
 - (7) Was intended for commercial passenger transportation and was not idling on a public street, highway or alley;
 - (8) Was a concrete mixer truck that was only idling while actually pouring concrete or staging to pour concrete;
 - (9) Was a utility truck that was only idling while providing power as needed to perform utility work;
 - (10) Met a defense set forth in section 14.05.001(c) of this code; or
 - (11) A motor vehicle when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period and is not within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available.
- (e) Penalty.
- (1) An offense under this section is punishable by a fine not to exceed \$500.00. Each instance of a violation of this section is a separate offense.
 - (2) Prosecution for an offense under this section does not preclude the use of other enforcement remedies or procedures that may be available to the city.
- (f) Additional regulations. Nothing in this section may be construed to authorize idling of a commercial vehicle in violation of section 14.05.001 of this code.

(2006 Code, sec. 46-91; Ordinance 09-11-819, sec. 2, adopted 11/9/09; Ordinance adopting 2015 Code)

ARTICLE 14.06 SEX OFFENDER RESIDENCY RESTRICTIONS***Sec. 14.06.001 Definitions**

For the purpose of this article, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

Day care center. A facility providing care, training, education, custody, treatment, or supervision for 13 or more children for less than 24 hours a day.

Minor. Any person under 17 years of age.

Permanent residence. A place where a person abides, lodges, or resides for 14 or more consecutive days.

Premises. Includes all improved and unimproved areas on the lot where the public park, public playground, private or public school, public swimming pool, semi-public swimming pool, or day care center is located.

Temporary residence. A place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year, and which is not the person's permanent address, or a place where a person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent address.

(2006 Code, sec. 46-1(a); Ordinance 06-08-702, sec. 2, adopted 8/7/06)

Sec. 14.06.002 Offenses

(a) It is unlawful for a person to establish a permanent or temporary residence within 1,000 feet of any premises where children commonly gather if the person is required to register on the state department of public safety's sex offender database (the "database") because of a conviction(s) involving a minor.

(b) For purposes of this article, premises where children commonly gather are deemed to be public parks, public playgrounds, private or public schools, public swimming pools, semi-public swimming pools, or day care centers.

(2006 Code, sec. 46-1(b); Ordinance 06-08-702, sec. 2, adopted 8/7/06)

Sec. 14.06.003 Evidentiary matters; measurements

(a) It shall be prima facie evidence that this article applies to a person if that person's record appears on the database and the database indicates that the victim was less than 17 years of age.

(b) For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described hereinabove, or, in the case of multiple residences on one property, measuring from the nearest property line of the premises to the nearest property line of the premises where children commonly gather, as described herein.

(c) A map depicting the prohibited areas shall be maintained by the city. The city shall review the map at least annually for changes. Said map will be available to the public at the city police department.

(d) Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this article.

* **State law references**—Establishment of child safety zone for sex offender on community supervision for sexual offenses against children, Tex. Code Crim. Proc. art. 42.12, sec. 13B; establishment of child safety zone for sex offender on community supervision for violent offenses, Tex. Code Crim. Proc. art. 42.12, sec. 13D.

- (e) It is a defense to prosecution under this article that any of the following conditions apply:
- (1) The person required to register on the database established the permanent or temporary residence and has complied with all of the sex offender registration laws of the state prior to the date of the adoption of this article, August 7, 2006.
 - (2) The person required to register on the database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.
 - (3) The person required to register on the database is a minor.
 - (4) The premises where children commonly gather, as specified herein, within 1,000 feet of the permanent or temporary residence of the person required to register on the database, was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state.
 - (5) The information on the database is incorrect, and, if corrected, this article would not apply to the person who was erroneously listed on the database.
 - (6) The person was at the time of the violation subject to community services supervision pursuant to V.T.C.A., Code of Criminal Procedure art. 42.12, sec. 13B, as amended, and the court reduced or waived the 1,000-foot restriction for a child-free zone under V.T.C.A., Code of Criminal Procedure art. 42.12, sec. 13B(a)(1)(B), as it applies to the person's residence.

(2006 Code, sec. 46-1(c); Ordinance 06-08-702, sec. 2, adopted 8/7/06)

Sec. 14.06.004 Penalty

A person who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not to exceed \$500.00 for each offense, and each and every violation or day such violation shall continue or exist shall be deemed a separate offense. (2006 Code, sec. 46-1(d); Ordinance 06-08-702, sec. 2, adopted 8/7/06)

ARTICLE 14.07 ILLEGAL SMOKING PRODUCTS AND RELATED PARAPHERNALIA

Sec. 14.07.001 Purpose

The purpose of this article is to prohibit the use, purchase, possession, sale, offering for sale, ingestion or smoking of illegal smoking products and to prohibit the use or possession of illegal smoking paraphernalia hereinafter defined within the city limits. (2006 Code, sec. 46-100; Ordinance 10-10-859, sec. 2, adopted 10/4/10)

Sec. 14.07.002 Definitions

Illegal smoking paraphernalia. Any paraphernalia, equipment or utensil that is used or intended to be used in ingesting, inhaling or otherwise introducing into the human body an illegal smoking product, and shall include, but is not limited to:

- (1) A metal, wooden, acrylic, glass, stone, plastic or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;
- (2) A water pipe;
- (3) A carburetion tube or device;

- (4) A smoking or carburetion mask;
- (5) A chamber pipe;
- (6) A carburetor pipe;
- (7) An electric pipe;
- (8) An air-driven pipe;
- (9) A chillum;
- (10) A bong; or
- (11) An ice pipe or chiller.

Illegal smoking product.

- (1) “Illegal smoking product” shall mean any substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any one or more of the following chemicals:
 - (A) Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as Salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plants, its seeds or extracts;
 - (B) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol (also known as CP47, 497) and homologues;
 - (C) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (also known as HU-211 or Dexanabinol);
 - (D) 1-pentyl-3-(1-naphthoyl)indole (also known as JWH-018);
 - (E) 1-butyl-3-(1-naphthoyl)indole (also known as JWH-073); or
 - (F) 1-pentyl-3-(4-methoxynaphthoyl)indole (also known as JWH-081).
- (2) Products containing some or all of the above substances are currently being marketed under the following commercial names: “K-2,” “K-2 Summit,” “K-2 Sex,” “Genie,” “Spice,” “Dascents,” “Zohai,” “Sage,” “Pep Spice,” “Solar Flare,” “KO Knock-Out 2,” “Spice Gold,” “Spice Diamond,” “Spice Cannabinoid,” “Yucatan Fire,” “Fire N’ Ice,” and “Salvia Divinorum.”
- (3) Any product containing any of the chemical compounds set forth above shall be subject to the provisions of this article, regardless of whether they are marketed under alternative names.

Person. An individual, group of two or more individuals, proprietorship, corporation, partnership, wholesaler, retailer, association or other legal entity, or any licensed or unlicensed business.

(2006 Code, sec. 46-101; Ordinance 10-10-859, sec. 2, adopted 10/4/10)

Sec. 14.07.003 Sale, delivery, offer, gift, display, possession or use of illegal smoking product

It shall be unlawful for any person to use, possess, purchase, barter, give, publicly display, sell, offer to sell or deliver any illegal smoking product. (2006 Code, sec. 46-102; Ordinance 10-10-859, sec. 2, adopted 10/4/10)

Sec. 14.07.004 Use or possession of illegal smoking paraphernalia

It shall be unlawful for any person to use or possess with intent to use illegal smoking paraphernalia to inject, ingest, inhale, or otherwise introduce into the human body an illegal smoking product. (2006 Code, sec. 46-103; Ordinance 10-10-859, sec. 2, adopted 10/4/10)

Sec. 14.07.005 Penalty

Any person found to be in violation of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding \$2,000.00. Each day during which a violation of this article is committed shall constitute a separate offense. (2006 Code, sec. 46-104; Ordinance 10-10-859, sec. 2, adopted 10/4/10)

Sec. 14.07.006 Culpable mental state required

The culpable mental state required for a violation of this article shall be governed by section 1.01.010 of this code. (2006 Code, sec. 46-105; Ordinance 10-10-859, sec. 2, adopted 10/4/10)

Sec. 14.07.007 Affirmative defenses to prosecution

It shall be a defense to prosecution for a violation of this article that an illegal smoking product or illegal smoking paraphernalia was:

- (1) Possessed or used by a person under a prescription issued by a licensed physician or dentist authorized to prescribe controlled substances in the state; or
- (2) Possessed or used by a person as part of a bona fide religious ritual or ceremony.

(2006 Code, sec. 46-106; Ordinance 10-10-859, sec. 2, adopted 10/4/10)

ARTICLE 14.08 JUNKED VEHICLES***Sec. 14.08.001 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:

Antique vehicle. A passenger car or truck that is at least 25 years old.

Junked vehicle. A vehicle that:

- (1) Is self-propelled; and
- (2) Is:
 - (A) Wrecked, dismantled or partially dismantled, or discarded; or

* **State law references**—Regulation of abandoned and junked motor vehicles, V.T.C.A., Transportation Code, sec. 683.001 et seq.; junked vehicles, V.T.C.A., Transportation Code, sec. 683.071 et seq.

- (B) Inoperable and has remained inoperable for more than:
 - (i) 72 consecutive hours, if the vehicle is on public property; or
 - (ii) 30 consecutive days, if the vehicle is on private property.

For purposes of this article, “junked vehicle” includes a motor vehicle, aircraft, or watercraft. This article applies only to:

- (1) A motor vehicle that displays an expired license plate or does not display a license plate;
- (2) An aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. part 47; or
- (3) A watercraft that:
 - (A) Does not have lawfully on board an unexpired certificate of number; and
 - (B) Is not a watercraft described by section 31.055, Parks and Wildlife Code.

Motor vehicle. Any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.

Motor vehicle collector. A person who:

- (1) Owns one or more antique or special interest vehicles; and
- (2) Acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle. A motor vehicle of any age that has not been changed from original manufacturer’s specifications and, because of its historic interest, is being preserved by a hobbyist.

(2006 Code, sec. 78-231; Ordinance 05-09-671, sec. 2 (93.01), adopted 9/6/05; Ordinance adopting 2015 Code)

Sec. 14.08.002 Declaration of nuisance

A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:

- (1) Is detrimental to the safety and welfare of the public;
- (2) Tends to reduce the value of private property;
- (3) Invites vandalism;
- (4) Creates a fire hazard;
- (5) Is an attractive nuisance creating a hazard to the health and safety of minors;
- (6) Produces urban blight adverse to the maintenance and continuing development of municipalities; and

- (7) Is a public nuisance.

(2006 Code, sec. 78-232; Ordinance 05-09-671, sec. 2 (93.02), adopted 9/6/05)

Sec. 14.08.003 Offenses; penalty

- (a) A person commits an offense if the person allows or maintains a junked vehicle in any place, whether on private or public property, in view of the public or on a public right-of-way.
- (b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.00 per day that the public nuisance continues or exists. Each day that the nuisance persists is a separate offense.
- (c) A culpable mental state is not required, and need not be proved, for an offense under this section.
- (d) The municipal court shall order abatement and removal of the public nuisance on conviction of this offense.

(2006 Code, sec. 78-233; Ordinance 05-09-671, sec. 2 (93.03), adopted 9/6/05)

Sec. 14.08.004 Abatement authority; procedures

To abate and remove a junked vehicle from any place visible to the public, whether on private or public property, the following procedure is required:

- (1) General abatement procedure.
- (A) The city, by this section, is adopting procedures for the abatement and removal from private or public property or a public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance.
- (B) Regularly salaried, full-time city employees shall administer the procedures for abatement and removal of a junked vehicle, except that any authorized person may remove the junked vehicle.
- (C) Any employee of the city authorized by the city manager to enforce this article may enter private property to examine the public nuisance, to obtain information to identify the nuisance, and to remove or direct removal of the nuisance.
- (D) Any person authorized by the city manager, or his designee, may enter private property to remove the junked vehicle, or part thereof.
- (2) Notice.
- (A) Notice of the nature of the junked vehicle must be sent by certified mail with a five-day return requested to:
- (i) The last known registered owner of the junked vehicle;
- (ii) Each lienholder of record of the junked vehicle; and
- (iii) The owner or occupant of:
- a. The property on which the junked vehicle is located; or
- b. If the junked vehicle is located on a public right-of-way, the property adjacent to the right-of-way.

- (B) If the post office address of the last known registered owner of the junked vehicle is unknown, notice may be placed on the junked vehicle or, if the owner is located, hand delivered.
 - (C) The notice must state the nature of the nuisance, and that:
 - (i) The junked vehicle must be abated and removed not later than the tenth day after the date on which the notice was mailed; and
 - (ii) Any request for a hearing must be made in writing and received before that ten-day period expires.
 - (D) If notice is returned undelivered, action to abate the junked vehicle shall be continued to a date not earlier than the 11th day after the date of the return.
 - (E) No notice is required for issuance of a citation for an offense under this article.
 - (F) In the case where a person receiving notice neither requests a hearing nor abates the nuisance within the ten-day period provided in subsection (2)(C)(i) of this section, the city shall, in compliance with subsections (2)(A) and (2)(B) of this section, give notice of a public hearing, providing the date, time, and place of the hearing.
- (3) Hearing.
- (A) The municipal court judge shall conduct hearings relative to the abatement of junked vehicles.
 - (B) A public hearing must be conducted prior to the removal of the junked vehicle not earlier than the 11th day after the date of service of notice.
 - (C) If a hearing is requested by a person for whom notice is required under subsection (2)(A)(iii) of this section, the hearing shall be held not earlier than the 11th day after the date of the service of notice. If a person has not responded to the initial notice, a public hearing may occur five business days after the date on the notification of public hearing.
 - (D) At the hearing, the junked vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
 - (E) If the information is available at the location of the nuisance, a municipal court order requiring removal of the junked vehicle must include the junked vehicle's:
 - (i) Description;
 - (ii) Vehicle identification number; and
 - (iii) License plate number.
 - (F) As part of the order authorizing removal or abatement of the junked vehicle, the municipal court shall:
 - (i) Prohibit a vehicle from being reconstructed or made operable after removal; and
 - (ii) Require that notice identifying the vehicle or part of the vehicle be given to the state department of public safety not later than the fifth day after the date of removal.

- (G) The municipal court shall have full authority to enforce the abatement procedures, including but not limited to issuing all necessary orders.
- (4) Request for removal of junked vehicle.
 - (A) After receiving written notice from the city regarding the public nuisance created by a junked vehicle:
 - (i) The owner of the junked vehicle may request and authorize the city to remove the junked vehicle; or
 - (ii) The owner or occupant of the private property upon which the junked vehicle is located may request and authorize the city to remove the junked vehicle if the city cannot locate the vehicle's owner.
 - (B) Before the city removes a junked vehicle, the person requesting removal under this section must execute an authorization and indemnification agreement, thereby allowing the city to enter the private property and holding the city harmless from any claim of injury or damage sustained as a result of the removal and disposal of the junked vehicle in accordance with this section.

(2006 Code, sec. 78-234; Ordinance 05-09-671, sec. 2 (93.04), adopted 9/6/05)

Sec. 14.08.005 Exceptions

Procedures adopted herein shall not apply to a vehicle or vehicle part thereof:

- (1) That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
- (2) That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any:
 - (A) Is maintained in an orderly manner;
 - (B) Does not constitute a health hazard; and
 - (C) Is screened from ordinary public view by appropriate means, including a fence, rapidly growing trees or shrubbery. A vehicle or part covered by a tarp, car blanket or similar covering does not meet the requirements of this subsection.

(2006 Code, sec. 78-235; Ordinance 05-09-671, sec. 2 (93.05), adopted 9/6/05)

Sec. 14.08.006 Immediate removal of vehicles constituting obstruction or safety hazard to traffic

Nothing in this article shall affect statutes and ordinances that permit immediate removal of a vehicle left on public property which constitutes an obstruction or safety hazard to traffic. (2006 Code, sec. 78-236; Ordinance 05-09-671, sec. 2 (93.06), adopted 9/6/05)

Sec. 14.08.007 Disposal

- (a) A junked vehicle removed under this article may not be reconstructed or made operable.

(b) A junked vehicle may be removed to a scrap yard, a motor vehicle demolisher, or any other suitable site for processing as scrap or salvage.

(c) The relocation of the junked vehicle that is a public nuisance to another location within the city, after a proceeding for the abatement and removal of the public nuisance has commenced, has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

(2006 Code, sec. 78-237; Ordinance 05-09-671, sec. 2 (93.07), adopted 9/6/05)

CHAPTER 15

RESERVED

CHAPTER 16

PUBLIC WAYS AND PUBLIC PLACES

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ARTICLE 16.01 GENERAL PROVISIONS**(Reserved)****ARTICLE 16.02 PARKS AND RECREATION*****Sec. 16.02.001 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:

Director of parks and recreation. The city manager or his authorized designee.

Public park. Any land or lands within the corporate limits of the city, owned or maintained by the city, which shall include, but not be limited to, improved areas designated as city parks, city-owned recreational facilities and all other facilities maintained by the city for the recreational enjoyment of its citizens.

(1993 Code, sec. 97.01; 2006 Code, sec. 50-1; Ordinance 373, sec. 4, adopted 2/6/95; Ordinance adopting 2015 Code)

Sec. 16.02.002 Enforcement

Any action committed upon public park property which is prohibited by this article shall be cause for the arrest of any person so committing said prohibited act by any law enforcement officer of the city, and the prosecution of such person by the city attorney. Jurisdiction for any suit brought to enforce a penalty for a violation of this article shall be in the municipal court of the city. (1993 Code, sec. 97.02; 2006 Code, sec. 50-2; Ordinance 373, sec. 4, adopted 2/6/95)

Sec. 16.02.003 Hours of operation

The hours of operation for any public park shall be 5:00 a.m. until 11:00 p.m. (1993 Code, sec. 97.03; 2006 Code, sec. 50-3; Ordinance 373, sec. 4, adopted 2/6/95; Ordinance 01-06-522 adopted 6/18/01)

Sec. 16.02.004 Prohibited acts

It shall be unlawful for any person to commit any one or more of the following acts:

- (1) To hitch, fasten, lead, drive or let loose any animal, reptile or fowl of any kind. This shall not apply to domestic animals when led by a static cord or chain not more than ten feet long or a retractable cord not more than 15 feet long.
- (2) To ride or drive any horse or other animal, except in designated areas.
- (3) To ride, drive or go at a rate of speed faster than the posted speed limit, upon any bicycle, motorcycle, in-line skates, automobile or any other vehicle whatsoever, upon any parking lot or area, road or street in any park. Bicycles, skateboards, in-line skates and nonmotorized scooters are allowed on park trails.
- (4) To ride, drive or park any motorcycle, automobile, motorized scooter, or other motorized vehicle upon, over or across any park, curb, sidewalk, grass, lawn, hiking or jogging trail or parkland, except authorized city vehicles, and in designated areas, unless authorized by the parks and recreation director.

* **State law references**—Authority to acquire and maintain parks, museums and historic sites, V.T.C.A., Local Government Code, ch. 331; municipal and county recreational programs and facilities, V.T.C.A., Local Government Code, ch. 332.

- (5) To carry firearms, except those persons who are duly licensed by the state to carry a concealed handgun in accordance with the provisions of the Texas Concealed Weapons Act, as amended.
- (6) To carry (unless permitted under subsection (5) of this section) or discharge firearms, fireworks, BB guns, air guns, bows and arrows, slingshots, blowguns, rockets or paintball guns, unless authorized by the parks and recreation director.
- (7) To hit golf balls, except in designated areas.
- (8) To damage, move, cut, break, injure, deface or disturb any tree, shrub, plant, rock, building, monument, fence, bench, equipment or other structure, apparatus or property, or to pluck, pull up, cut, take or remove any shrub, bush, plant or flower, or to mark or write upon, paint or deface in any manner any building, monument, fence, bench, equipment or other structure.
- (9) To cut or remove any wood, turf, grass, soil, rock, sand, gravel or fertilizer.
- (10) To swim, bathe, wade in or pollute the water of any fountain, pond, lake or stream, except when authorized by the parks and recreation director.
- (11) To make or kindle a fire, except in picnic stoves, braziers, fire pits or designated areas provided for that purpose.
- (12) To place, abandon or leave garbage, cans, bottles, papers or other refuse in any public park, except in proper waste receptacles.
- (13) To participate or engage in any activity when such activity will create a danger to the public or a public nuisance, or cause damage to public park property.
- (14) To camp, sleep or stay overnight in any park, unless authorized in writing by the parks and recreation director.
- (15) To remain, stay or loiter in any park between the hours of 11:00 p.m. and 5:00 a.m. unless authorized in writing by the parks and recreation director.
- (16) To possess or consume any alcoholic beverages.
- (17) To disturb in any manner any picnic, meeting, service, concert, exercise or exhibition.
- (18) To distribute, post, place or erect any static or mobile advertising, handbill, circular, bill, notice, paper or other advertising device.
- (19) To sell or offer for sale any food, drinks, confections, merchandise or services, except pursuant to a written agreement with the city or by written permission from the parks and recreation director.
- (20) To practice, carry on, conduct or solicit for any trade, occupation, business or profession, or to circulate any petition of whatsoever kind or character, except pursuant to a written agreement with the city or by written permission from the parks and recreation director.
- (21) For any person over the age of six years to use the restrooms and washrooms designated for the opposite sex, unless assistance is necessary.
- (22) To place or dump any trash, refuse, solid waste, grass clippings, leaves, or other objectionable or unsightly matter in any park.
- (23) To allow a domestic animal to defecate in the park without immediate removal.

- (24) Seining minnows or fish from the creeks, ponds, and lakes in any park.
- (25) To abandon, place, remove or injure any animal, domestic or wild, including but not limited to dogs, cats, cows, horses, birds, mammals, reptiles, fowls, and livestock.
- (26) To catch and remove any fish when the person is required to obtain a fishing license from the state parks and wildlife department, such persons being restricted to catch and release only.
- (27) To use or operate any motorboat on any creek, pond, lake, or water within any park.
- (28) To use or operate any gas-operated remote-controlled airplane, boat, car, or other motorized model device, including radio-controlled devices (except radio-controlled boats), or helicopter, parasail, hang glider, or hot air balloon, unless otherwise designated by the parks and recreation director.
- (29) Use of mechanical loudspeakers or amplified music, sound, or voices, except when authorized by the parks and recreation director.
- (30) To conduct or participate in any tournament, camp, or organized sporting activity which has not been specifically authorized by the parks and recreation director or which conflicts with a scheduled activity or event authorized by the parks and recreation director.
- (31) To use glass containers.
- (32) To violate any park rules which are conspicuously posted at or near the main entrance to a park or park facility.
- (33) To operate any vehicle in a park facility parking lot after normal hours of operation.
- (34) To park or operate a commercial vehicle in park facility parking lots, except on official business or when attending a park function.
- (35) To park or operate any truck-trailer, trailer, semitrailer, or pole-trailer in a park facility parking lot at any time, unless it is there on official business.
- (36) To roller skate, ride on a skateboard, or cycle on any park bench, table, sidewalk railing, retaining wall or other park structure, not intended for pedestrian or vehicle traffic, or to jump or step on or off such park structures in the process of roller skating, riding a skateboard, or cycling.

(1993 Code, sec. 97.04; 2006 Code, sec. 50-4; Ordinance 373, sec. 4, adopted 2/6/95; Ordinance 01-06-522 adopted 6/18/01; Ordinance 03-10-589 adopted 10/6/03; Ordinance 10-12-868, sec. 1, adopted 12/13/10; Ordinance adopting 2015 Code)

Sec. 16.02.005 Events and other activities

- (a) Use of park facilities (including, but not limited to, specific events, fields, tennis courts, and pavilions, for tournaments, camps, organized sporting events, and games) must be prescheduled with and approved by the parks and recreation director.
- (b) The parks and recreation director shall have the authority to issue special permits and grant exceptions or waivers to any of the terms of the prohibited acts for authorized events and activities.
- (c) No person shall advertise an event, meeting or activity or the time, permitted hours, or usage of any event, meeting or activity to be held or conducted in a park facility unless such event, meeting or activity and

advertisement of such event, meeting, or activity and the time, permitted hours, or usage have been approved by the parks and recreation director.

(1993 Code, sec. 97.05; 2006 Code, sec. 50-5; Ordinance 01-06-522 adopted 6/18/01)

Sec. 16.02.006 Responsibility for damages and cost of services

The person, group, organization or entity reserving the use of a park facility shall be responsible for all damages to city property and for the cost of any park maintenance services, emergency or public safety services, including police and fire, provided to, at or dispatched to the park facility as a result of such person's, group's or organization's misuse or improper or unlawful use of the park facility. (1993 Code, sec. 97.06; 2006 Code, sec. 50-6; Ordinance 01-06-522 adopted 6/18/01)

Sec. 16.02.007 Use of tobacco products

(a) It shall be unlawful for any person to use any tobacco product or to smoke, or possess a burning tobacco, weed or other plant product, in any park or park facility, except in designated areas or parking lots.

(b) A sign containing the words "This Facility is Tobacco Free" with letters at least 1.5 inches in height shall be posted at or near the main entrance of each park and park facility or notice of such prohibition shall be contained in any park rules which are posted in athletic fields and other park facilities.

(1993 Code, sec. 97.07; 2006 Code, sec. 50-7; Ordinance 01-06-522 adopted 6/18/01; Ordinance adopting 2015 Code)

Sec. 16.02.008 User fees

The city council may establish fees for the use of park and recreation facilities by resolution from time to time. (1993 Code, sec. 97.08; 2006 Code, sec. 50-8; Ordinance 01-06-522 adopted 6/18/01)

ARTICLE 16.03 TREE CARE PROGRAM

Sec. 16.03.001 Established

There is hereby created and established a tree care program to provide full power and authority over the care of all trees, plants and shrubs located within public rights-of-way, parks and public places and aid in the proper growth of a landscape program to enhance the beauty of the city. (2006 Code, sec. 50-9; Ordinance 11-03-876, sec. 1, adopted 3/1/11)

Sec. 16.03.002 Care of public trees; pruning of trees overhanging right-of-way

(a) The city manager and/or his designee shall have the responsibility to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares, parks, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

(b) Every owner of any tree or shrub overhanging any street or right-of-way, in accordance to the city pruning guidelines, shall prune the branches so that such branches shall not (severely) obstruct the light from any street lamp or obstruct the view of any street intersection, will not obstruct the passage of pedestrians on sidewalks, will not obstruct vision of traffic signs, and will not obstruct the view of any street or alley intersection. If the property owner fails to do so, the city manager and/or his designee shall have the right to remove or prune any tree or shrub on private property which threatens the safety of those who may use a city street or city park. A fee shall be assessed for this service on an hourly basis. Fees will be based on the current hourly wages of city maintenance workers.

(c) No person shall remove, destroy, or cause the removal or destruction of a tree on city property or in any city park without first having obtained written permission for such removal or destruction from the city manager.

(d) It shall be unlawful for any person, firm or corporation to attach any cable, wire, rope, sign or any object to any city tree, plant or shrub without written permission from the city manager and/or his designee.

(2006 Code, sec. 50-9(a); Ordinance 11-03-876, sec. 1, adopted 3/1/11; Ordinance adopting 2015 Code)

Sec. 16.03.003 Tree preservation board

(a) Membership. The parks and recreation board shall serve as the tree preservation board.

(b) Election of officers. The board officers shall be the same as the park and recreation board, and each officer shall serve for a term consistent with the park and recreation board members.

(c) Meetings. The board shall meet with a minimum of six times each year. All stated meetings shall be open to the public. The board chairman may schedule additional meetings as needed.

(d) Duties. The duties of the tree preservation board shall include:

- (1) To review the tree management plan, tree preservation and mitigation guidelines, and the tree care program as may be necessary;
- (2) To promote the protection of healthy trees and provide guidelines for the replacement and/or replanting of trees necessarily removed during construction, development, and redevelopment;
- (3) To uphold rules and regulation governing the protection and preservation of native or established trees with the city, which provide for purification of air and water, provide shade, windbreaks and the cooling of air, and provide for open space and more efficient drainage of land, thus reducing the effects on soil erosion;
- (4) To study, investigate, counsel and develop and/or update periodically a written plan for the care, preservation, pruning, planting, replanting, removal or disposal of public trees and shrubs on city property;
- (5) To review and recommend specific beautification projects and public awareness programs to the parks and recreation department, city manager and/or city council as may be appropriate;
- (6) Coordinating and promoting Arbor Day activities;
- (7) Submitting the annual application to renew the Tree City USA designation; and
- (8) Other duties that may be assigned by the city council.

(2006 Code, sec. 50-9(b); Ordinance 11-03-876, sec. 1, adopted 3/1/11; Ordinance adopting 2015 Code)

ARTICLE 16.04 STREETS AND SIDEWALKS***Division 1. Generally****Secs. 16.04.001–16.04.030 Reserved****Division 2. Street Names and Address Numbers****Sec. 16.04.031 Numbering plan; placement of numbers**

- (a) All numbering of new construction shall, as near as practical, conform to the following plan:
- (1) The center of the grid reference point will be the intersection of Murphy Road and FM 544. Grid lines will be drawn every 800 feet in each direction and the first grid will be designated as the 100 block, the second grid the 200 block, and the like.
 - (2) Structures located on the north side and the west side of a street will be given odd numbers; those located on the south side and east side will be given even numbers.
 - (3) Diagonal streets shall be numbered in the east-west or north-south series in accordance with the dominant direction of the street.
 - (4) Cul-de-sacs which have two or more lots directly facing each other, and the lot fronts parallel to each other, will be given street names. Shorter cul-de-sacs where all lots front the circle may or may not be named. If not named, they will be assigned numbers from the series used on the street [from] which the cul-de-sac runs.
 - (5) In the case of group housing projects with private drives and interior parking bays, a number will be assigned to the driveway. This will become the street address for all units on the drive, parking bay or court. Separate units or apartments will then carry the street number as well as apartment number.
- (b) All house and building numbers will be placed immediately above, on, or at the side of the proper door of each building and shall be of such size and color as to be seen plainly from the street. In cases where houses are located sufficiently far from the street as to make it impracticable to place a number thereon which would be visible from the street, the number will be placed near the walk or driveway or upon a gate post, fence, tree, post or other appropriate place so as to be easily discernible from the street. The numbers should blend architecturally in size and design with the structure as nearly as practicable. The placement of these numbers is in addition to the numbers that should appear on mailboxes when it is appropriate.

(1984 Code, sec. 3-3-2A; 1993 Code, sec. 96.01; 2006 Code, sec. 66-21; Ordinance 150, sec. 1, adopted 11/17/80)

Sec. 16.04.032 Review of final plats

When a final plat is filed, and prior to approval, the city manager or his designee will review the plat to see that all streets are properly named. There will not be any duplication of street names within the city or the Plano postal service area. Numbers will be assigned to each individual property or front footage. (1984 Code, sec. 3-3-2B; 1993 Code, sec. 96.02; 2006 Code, sec. 66-22; Ordinance 150, sec. 2, adopted 11/17/80; Ordinance adopting 2015 Code)

* **State law references**—Municipal streets, alleys, etc., V.T.C.A., Transportation Code, ch. 311; street improvements and assessments in municipalities with population of more than 1,000, V.T.C.A., Transportation Code, ch. 313; use of municipal streets and sidewalks for public conveniences and amenities or for private uses, V.T.C.A., Transportation Code, ch. 316; management of public right-of-way used by telecommunications provider, V.T.C.A., Local Government Code, ch. 283.

Sec. 16.04.033 Master grid map

It is recognized that the numbering plan contained herein should be flexible to allow adjustment in respect to grid lines and street intersections. Therefore, actual street numbering shall not be required to be placed upon the subdivision plat to be filed of record but will be kept on a separate numbering plat or master grid map as a part of the official records of the city. (1984 Code, sec. 3-3-2C; 1993 Code, sec. 96.03; 2006 Code, sec. 66-23; Ordinance 150, sec. 3, adopted 11/17/80)

Secs. 16.04.034–16.04.060 Reserved**Division 3. Moving Buildings*****Sec. 16.04.061 Permit required**

No person, firm or corporation shall hereafter move or transport any house or building more than 500 square feet over, along or across any street or alley within the city limits until such person, firm or corporation shall have made an application in writing to the city manager or designee, and shall have given bond and paid the required fee and deposit for costs, as hereinafter provided, and until a written permit has been issued authorizing the movement of such a house or building as herein provided. (1984 Code, sec. 6-5-1; 1993 Code, sec. 96.15; 2006 Code, sec. 66-41; Ordinance 23, sec. I, adopted 12/5/72; Ordinance adopting 2015 Code)

Sec. 16.04.062 Application for permit; issuance; fee; bond

(a) An application for a permit under this division shall be in writing, signed by the applicant, and shall state the location of the house or building to be moved and the lot and block and/or legal description of the tract or parcel of land where it is to be placed after it is moved and the streets over which same is to be moved and the time desired within which to move it. Said application shall be submitted to the city manager or designee.

(b) If the city manager or designee or someone under his direction shall determine that such house or building may be moved in safety and in full compliance with the provisions of this division, he shall issue a permit to the applicant upon the payment by the applicant of a fee according to the city fee schedule, as printed in appendix A to this code, to cover the costs of investigating the application and of issuing the permit, which fee shall be deposited in the general funds of the city.

(c) The city manager or designee shall also require the applicant to deposit a bond in a sum set forth in the city fee schedule, as printed in appendix A to this code, before he issues any permit to move the house or building over the streets of the city. This bond shall be signed by the applicant and two or more good and sufficient sureties, or by the applicant and a surety company which is always authorized to make surety bonds in this state, said bond being conditioned to indemnify any and all persons, firms or corporations and the city for any damage, loss or reasonable and necessary expenses caused to or incurred by any persons, firms, corporations or the city, as result of the moving of any house or building, and such bond shall be for the use and benefit of all persons, firms or corporations, including the city, who suffer any damage or loss to property or person or incur any reasonable and necessary expenses by reason of the moving of such house or building. If any person, firm or corporation making application for such permit desires to deposit a cash bond in the above-mentioned amount instead of a surety bond, he or they may do so. In the event the applicant is in the moving business and/or contemplates moving more than one house or building, he is hereby required to make a bond in the sum set forth in the city fee schedule, as printed in appendix A to this code, conditioned as stated above, and covering each house or building for which he makes application and obtains a permit. All such bonds shall be approved by the city manager or designee and shall be retained by him in his office.

(1984 Code, sec. 6-1-2; 1993 Code, sec. 96.16; 2006 Code, sec. 66-42; Ordinance 23, sec. II, adopted 12/5/72; Ordinance adopting 2015 Code)

* **State law reference**—Authority of home-rule municipality to regulate movement of buildings on streets, V.T.C.A., Transportation Code, sec. 311.005.

Sec. 16.04.063 Designation of route; raising or removal of overhead wires

The city engineer, or someone under his control, shall at the time said permit is issued by the city manager or designee indicate the route to be followed by the applicant in moving the house or building, which route must be followed by the applicant. When such route has been indicated, and the permit issued, it shall be the duty of the person, firm or corporation moving the house or building to give immediate notice of the move to any and all companies maintaining overhead wires across or along any street or alley included in the designated route along which such house or building is to be moved. Said company or companies shall be told the time when the move is to be undertaken and when it will be necessary to raise or cut such wires. The house mover shall arrange with the company or companies for the payment of all charges for moving, cutting or repairing wires, cables or poles, or for other services rendered. After receiving such notice, it shall be the duty of the company or companies maintaining said wires to furnish one or more employees to cut, raise or move such wires in order to permit the house or building to be moved along the designated route. The house movers shall under no conditions nor under any consideration cut, raise or move any wire or wires found across or along any street or alley and shall not remove the wire from any post or support or damage the same in moving such house or building, but shall stop all operations in the moving of the house or building until such wire is raised, cut or moved by an employee of the company owning or maintaining the wire. (1984 Code, sec. 6-1-3; 1993 Code, sec. 96.17; 2006 Code, sec. 66-43; Ordinance 23, sec. III, adopted 12/5/72; Ordinance adopting 2015 Code)

Sec. 16.04.064 Movement at night

No house or building shall be moved at night, nor be stopped or left on any street or alley of the city at night, unless there shall be attached to each end of such house or building a red light or lantern visible for at least 300 feet along such street or alley. (1984 Code, sec. 6-1-4; 1993 Code, sec. 96.18; 2006 Code, sec. 66-44; Ordinance 23, sec. IV, adopted 12/5/72)

Secs. 16.04.065–16.04.090 Reserved**Division 4. Encroachments, Cuts or Excavations in Right-of-Way or Easement*****Sec. 16.04.091 Permit required**

(a) No person or agency may install any utility or other encroachment, make a pavement cut or excavate in a public street, curb, easement, or alley without first obtaining a permit. Application for a permit shall be made no less than two city working days prior to the date of the proposed activity unless an emergency exists, in which case immediate notice must be given to the city. If the proposed cut or excavation is to be made in the public right-of-way dedicated to the state, a city permit is required in addition to any and all permits required by the state.

(b) A permit does not relieve the applicant of the responsibility to coordinate with other utilities and to protect existing facilities.

(1993 Code, sec. 96.30; 2006 Code, sec. 66-61; Ordinance 342, sec. 2, adopted 11/2/92; Ordinance adopting 2015 Code)

Sec. 16.04.092 Issuance of permit; procedural rules; enforcement

The city manager is authorized to establish procedural rules to regulate the issuance of permits, inspection of work sites, traffic control, and pavement restoration; to determine the time and method of pavement cuts and pavement excavations in order to minimize interference of traffic and to eliminate the unnecessary cutting of pavement; to inspect pavement cuts, pavement excavations, or restorations, embankments, barricades, warning signs, and signal lights; to order removal of encroachments on the right-of-way, placement of proper barricades and warning devices, and repair of substandard restoration work; and to exercise police power in the

* **State law reference**—Municipal regulation of obstructions on streets, etc., V.T.C.A., Transportation Code, ch. 311.

enforcement of this division. (1993 Code, sec. 96.31; 2006 Code, sec. 66-62; Ordinance 342, sec. 3, adopted 11/2/92; Ordinance adopting 2015 Code)

Sec. 16.04.093 Suspension of permit

A permit issued to a permittee within the intent or goals of this division may be suspended if the permittee:

- (1) Fails to comply with an order of the city manager or designee; or
- (2) Fails to comply with restrictions or requirements placed on the permit.

(1993 Code, sec. 96.32; 2006 Code, sec. 66-63; Ordinance 342, sec. 3, adopted 11/2/92; Ordinance adopting 2015 Code)

Sec. 16.04.094 Reinstatement of permit

A previously suspended permit may be reinstated when the conditions that caused said permit to be previously suspended are remedied by the permittee to the satisfaction of the city. (1993 Code, sec. 96.33; 2006 Code, sec. 66-64; Ordinance 342, sec. 3, adopted 11/2/92; Ordinance adopting 2015 Code)

Sec. 16.04.095 Permit fee; form of permit

A permit fee may be assessed in accordance with the adopted fee schedule. The city permit shall be substantially in the same form as the permit designated as exhibit A of Ordinance No. 342, adopted November 2, 1992, which is incorporated herein as if set out in its entirety. (1993 Code, sec. 96.34; 2006 Code, sec. 66-65; Ordinance 342, sec. 3, adopted 11/2/92; Ordinance adopting 2015 Code)

Secs. 16.04.096–16.04.120 Reserved

Division 5. Sidewalks*

Sec. 16.04.121 Maintenance required; removal of mud, debris or other obstructions

All sidewalks, walkways, steps and driveways located on all private property shall be maintained in a state of good repair. The owner and tenant of private property adjacent to all public sidewalks, walkways and steps shall keep such sidewalks, walkways, and steps free of mud, debris, or other obstruction that would impair or prevent their use. (1993 Code, sec. 96.50; 2006 Code, sec. 66-81; Ordinance 417, sec. 2, adopted 12/1/97)

Sec. 16.04.122 Maintenance of sidewalks

- (a) All sidewalks located in residential zoned districts and located in the public right-of-way shall be the responsibility of the city.
- (b) The city shall be responsible for the repair, replacement or reconstruction of the sidewalk.
- (c) The decision to repair and/or replace a sidewalk shall be determined by the city utilizing the evaluation criteria listed in exhibit A below.
- (d) All sidewalks located in nonresidential zoned districts and located in the public right-of-way shall be the responsibility of the individual property owner.

* **State law references**—Authority over sidewalks, V.T.C.A., Transportation Code, sec. 311.004; assessment for construction of sidewalks and curbs, V.T.C.A., Transportation Code, sec. 311.093.

Exhibit A
Sidewalk Replacement Criteria

Criteria for sidewalk replacement will be as follows:

1. Sidewalk must be located within the City of Murphy street right-of-way or easement.
2. Sidewalk that has surface spalling with a depth of 1/4 inch or greater and covers 50% or greater of the area to be replaced.
3. Sidewalk cross fall that is 1-1/2 inches or greater than the City's sidewalk specifications (1/4"/foot) found in the City's Standard Construction Details (2-1/2" total on a 4' walk).
4. A sidewalk section that is missing pieces that creates a safety hazard, (not chips or cracks that are cosmetic in nature).
5. Sidewalk longitudinal sections that have a dip of 2-3/4 inches or greater.
6. Trip hazard, i.e., sidewalk sections that are adjoining and have a 1/4-inch or greater difference in levelness.
7. Provide a 36-inch minimum clearance for obstructions located in sidewalks (i.e. mailboxes, utility poles, fire hydrants).

(1993 Code, sec. 96.51; 2006 Code, sec. 66-82; Ordinance 00-08-491 adopted 8/21/00; Ordinance 14-10-990 adopted 10/21/14)

CHAPTER 17

RESERVED

CHAPTER 18

TAXATION

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ARTICLE 18.01 GENERAL PROVISIONS***(Reserved)****ARTICLE 18.02 AD VALOREM TAX[†]****Sec. 18.02.001 Levy of tax**

There is hereby levied for the fiscal year on all taxable property, real, personal and mixed, situated within the limits of the city, and not exempt by the constitution of the state and valid state laws, a tax in an amount per each \$100.00 assessed value of taxable property, and shall be apportioned and distributed as follows:

- (1) For the purpose of defraying the current expenses of the municipal government of the city, a tax in an amount per each \$100.00 assessed value of all taxable property.
- (2) For the purpose of creating a sinking fund to pay the interest and principal on all outstanding bonds of the city, not otherwise provided for, a tax in an amount per each \$100.00 assessed value of all taxable property within the city, which shall be applied to the payment of such interest and maturities of all outstanding bonds.

(1993 Code, sec. 37.15; 2006 Code, sec. 74-23)

Sec. 18.02.002 Due date; delinquency date; penalty and interest on delinquent tax

(a) All ad valorem taxes shall become due and payable on October 1 of each year and all ad valorem taxes for the year shall become delinquent after January 31 of the following year. There shall be no discount for payment of taxes prior to January 31. A delinquent tax shall incur all penalty and interest authorized by law (V.T.C.A., Tax Code sec. 33.01), a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent.

(b) However, a tax delinquent on July 1 incurs a total penalty of 12 percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent. A delinquent tax shall also accrue interest at a rate of 15 percent for each month or portion of a month the tax remains unpaid. Taxes that remain delinquent on July 1 of the following year incur an additional penalty of 15 percent of the amount of taxes, penalty and interest due; such additional penalty is to defray costs of collection due to contract with the city attorney pursuant to V.T.C.A., Tax Code sec. 6.30.

(1993 Code, sec. 37.16; 2006 Code, sec. 74-24)

Charter reference—When taxes due and payable, sec. 7.20.

State law reference—Delinquency date for payment of taxes, V.T.C.A., Tax Code, sec. 31.02.

Sec. 18.02.003 Collection

Taxes are payable in the city, at the office of the tax collector. The city shall have available all rights and remedies provided by law for the enforcement of the collection of taxes levied under this article. (1993 Code, sec. 37.17; 2006 Code, sec. 74-25)

Charter reference—Tax liens, liabilities and suits, sec. 7.21.

* **Charter references**—Tax collector, sec. 4.05(3); power to tax, sec. 7.19; when taxes due and payable, sec. 7.20; tax liens, liabilities and suits, sec. 7.21; power to settle claims, sec. 12.04.

[†] **State law reference**—Property taxes, V.T.C.A., Tax Code, sec. 1.01 et seq.

Sec. 18.02.004 Additional penalty to defray costs of collection of delinquent taxes

- (a) Taxes that remain delinquent on July 1 of the year in which they become delinquent shall incur an additional penalty to [defray] costs of collection so long as the city has contracted with an attorney, pursuant to V.T.C.A., Tax Code sec. 6.30, for collection of the taxes against which the additional penalty is imposed.
- (b) The amount of the additional penalty imposed herein shall be an amount of money equal to 15 percent of the amount of taxes, penalty and interest due.
- (c) A tax lien shall attach to the property on which the tax is imposed to secure payment of the penalty.
- (d) If a penalty is imposed pursuant to this section, the city may not recover, in addition thereto, attorney's fees in a suit to collect delinquent taxes subject to the penalty.
- (e) The tax collector of the city shall deliver, as required by V.T.C.A., Tax Code, a notice of the delinquency and of the penalty to the property owner at least 30 days and not more than 50 days before July 1 of the year in which the taxes become delinquent.
- (f) Should the city contract with another taxing unit for the collection of taxes, then the provisions of this section shall survive and be applicable to the delinquent taxes collected by the taxing unit collecting taxes for the city; and, in such event, the notice required by subsection (e) of this section shall be delivered by the tax collector for the contracting taxing unit.

(1993 Code, sec. 37.01; 2006 Code, sec. 74-21; Ordinance 274 adopted 9/3/87)

State law references—Contract with attorney for collection of taxes, V.T.C.A., Tax Code, sec. 6.30; imposition of penalty for collection of delinquent taxes, V.T.C.A., Tax Code, secs. 33.01, 33.07, 33.08.

Sec. 18.02.005 Homestead exemption for persons age 65 or older and disabled persons

- (a) For the purpose of this section, “disabled” shall mean under a disability for purposes of payment of disability insurance benefits under Federal Old Age, Survivors and Disability Insurance, consistent with V.T.C.A., Tax Code sec. 11.13(m), as amended.
- (b) Pursuant to the provisions of V.T.C.A., Tax Code sec. 11.13, as amended, there is hereby created a residential homestead exemption for persons 65 years of age or older and for disabled persons, such exemption from taxation being \$50,000.00 [of the] appraised value of the resident's homestead.
- (c) The resident's homestead exemptions provided by subsection (b) of this section may not be aggregated; an individual who is eligible for both exemptions is entitled to take only one of the exemptions so authorized.
- (d) Joint or community owners may not each receive the same exemption provided by or pursuant to this section for the same resident's homestead in the same year.
- (e) A person claiming eligibility for a disabled person or person 65 years of age or older may submit an affidavit to the county tax appraisal district in order to obtain the exemption.

(1993 Code, sec. 37.02; 2006 Code, sec. 74-22; Ordinance 06-06-696, sec. 3, adopted 6/19/06)

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

Sec. 18.02.006 Exemption of tangible personal property in transit

The goods-in-transit, as defined in Texas Tax Code section 11.253(a)(2), as amended by Senate Bill 1, enacted by the 82nd Texas Legislature in special session, shall not be subject to taxation by the city. (2006 Code, sec. 74-30; Ordinance 07-11-741 adopted 11/19/07; Ordinance 11-12-901 adopted 12/6/11)

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

ARTICLE 18.03 LOCAL SALES AND USE TAX***Sec. 18.03.001 Adoption**

The city has hereby adopted a one percent local sales and use tax. (1993 Code, sec. 37.30; 2006 Code, sec. 74-51; Res. 71-10-1 adopted 10/1/71)

ARTICLE 18.04 DEVELOPMENT TAXES**Sec. 18.04.001 Municipal development district tax**

The Murphy Economic Development Corporation (Type A) and the sales tax for the promotion and development of new and expanded business enterprises at the rate of one-half of one percent is abolished and, concurrently, the creation of the City of Murphy Municipal Development District with the imposition of a sales and use tax at the rate of one-half of one percent for the purpose of financing development projects beneficial to the district is authorized. (Ordinance 11-11-899, sec. 4, adopted 11/15/11)

Editor's note—Ordinance 11-11-899 adopted November 15, 2011, certified the results of the November 8, 2011 special election and abolished the Murphy Economic Development Corporation. Prior to the special election, the Murphy Economic Development Corporation was authorized by Ordinance 03-06-578 adopted June 16, 2003, codified as section 37.31 of the 1993 Code and section 74-71 of the 2006 Code.

State law reference—Municipal development districts, V.T.C.A., Local Government Code, ch. 377.

Sec. 18.04.002 Community development corporation tax

(a) The facts and matters set forth in the preamble of Ordinance No. 03-06-579 are hereby found to be true and correct.

(b) There is hereby levied by the city a sales and use tax of 0.5 percent within the city in accordance with and pursuant to V.T.C.A., Local Government Code, chapter 505, as amended (the "Act") for the benefit of a city industrial development corporation to be used to pay the costs of projects, as now or hereafter defined in V.T.C.A., Local Government Code, chapter 505, including, but not limited to:

- (1) Projects suitable for use for professional and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ballparks, auditoriums, amphitheaters, concert halls, learning centers, parks and park facilities, open space improvements, municipal buildings, museums, exhibition facilities, related store, restaurant concession, and automobile parking facilities, related area transportation facilities and related roads, streets, and water and sewer facilities; or
- (2) Projects to promote or develop new or expanded business enterprises, including public safety facilities, streets and roads, drainage, and related improvements, demolition of existing structures, general municipally owned improvements, as well as any related improvements or facilities and any project determined by the board of directors of the corporation to promote or develop new or

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

expanded business enterprises; and to pay maintenance and operating costs of publicly owned and operated projects purchased or constructed under said V.T.C.A., Local Government Code, chapter 505.

(c) The city hereby authorizes the creation of the city's industrial development corporation to be known as the "City of Murphy Community Development Corporation," in accordance with the Act and the authorization given by the voters at the May 3, 2003, election.

(d) The city manager and the city secretary are hereby authorized to assist and cooperate with the office of the comptroller of the state in the implementation of this section and the levy and collection of such sales and use tax.

(e) The city secretary is authorized and directed to forward a certified copy of this section to the comptroller of the state.

(f) It is hereby found and determined that the meeting at which this ordinance was considered was open to the public, as required by the Texas Open Meetings Act, and that the notice of meeting relating to the regular meeting of the city council at which this ordinance was considered and the posting thereof was proper, and said notice and posting are hereby authorized, approved, resolved, ratified, and confirmed.

(1993 Code, sec. 37.32; 2006 Code, sec. 74-72; Ordinance 03-06-579 adopted 6/16/03)

State law reference—Municipal development corporations, V.T.C.A., Local Government Code, ch. 379A.

CHAPTER 19

RESERVED

CHAPTER 20

TRANSPORTATION AND TRAFFIC

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ARTICLE 20.01 GENERAL PROVISIONS***Sec. 20.01.001 Exceptions for authorized emergency vehicles**

The driver of an “authorized emergency vehicle,” as defined in V.T.C.A., Transportation Code 541.201, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

- (1) The driver of an authorized emergency vehicle may:
 - (A) Park or stand, irrespective of the provisions of this chapter.
 - (B) Proceed past a stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
 - (C) Exceed the maximum speed limits so long as he does not endanger life or property; however, in no event shall an ambulance operating as an authorized emergency vehicle exceed a speed of ten miles per hour greater than the authorized posted speed limit on the route of travel of such ambulance.
 - (D) Disregard regulations governing direction of movement or turning in specified directions.
- (2) The foregoing provisions of this section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(1984 Code, sec. 8-2-6; 1993 Code, sec. 70.01; 2006 Code, sec. 78-1; Ordinance 164, sec. 6, adopted 4/6/81; Ordinance adopting 2015 Code)

State law references—Permissible conduct, V.T.C.A., Transportation Code, sec. 546.001; audible or visual signals required, V.T.C.A., Transportation Code, sec. 546.003.

Sec. 20.01.002 Use of engine brakes prohibited

(a) This section applies to a roadway or street within the corporate limits of the city, including a state-maintained roadway.

(b) A person may not use an engine brake or engine retarder to assist in slowing or braking a motor vehicle, except for an emergency vehicle engaged in emergency duties.

(2006 Code, sec. 78-2; Ordinance 07-01-709, sec. 2, adopted 1/16/07)

* **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 20.02 TRAFFIC-CONTROL DEVICES***Sec. 20.02.001 Definition**

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

Traffic-control device. Any sign, signal or marking, including markings on pavement and curbs, installed within the city at the direction of the director of traffic control for the purpose of directing and controlling traffic within the city or to guide or warn traffic within the city.

(1984 Code, sec. 8-2-1; 1993 Code, sec. 70.15; 2006 Code, sec. 78-21; Ordinance 164, sec. 1, adopted 4/6/81)

Sec. 20.02.002 State regulations adopted

All traffic-control devices including signs, signals and markings (pavement and/or curb) installed or used for the purpose of directing and controlling traffic within the city shall conform with the manual and specifications adopted by the state transportation commission as provided in V.T.C.A., Transportation Code, section 544.001. All signs, signals and markings erected or used by the city must conform to the manual and specifications adopted under V.T.C.A., Transportation Code, section 544.001. All existing traffic-control devices and those erected in the future by the city being consistent with the manual and specifications, state law and this section shall be official traffic-control devices. (Ordinance adopting 2015 Code)

Sec. 20.02.003 Obedience

The driver of any vehicle or animal shall obey the instruction of any traffic-control device applicable thereto placed in accordance with this article or any other applicable traffic ordinances of the city, unless otherwise directed by a police officer, subject to the exceptions granted in section 20.01.001 to the driver of an authorized emergency vehicle. (1984 Code, sec. 8-2-3; 1993 Code, sec. 70.16; 2006 Code, sec. 78-22; Ordinance 164, sec. 3, adopted 4/6/81)

State law reference—Compliance with traffic-control device, V.T.C.A., Transportation Code, sec. 544.004.

Sec. 20.02.004 Director of traffic control

(a) **Chief of police designated.** In absence of specific appointment, the chief of police or designee shall be the director of traffic control.

(b) **Installation of traffic-control devices.**

- (1) **Determination of necessity.** The director of traffic control shall determine the necessity for installing traffic-control devices based upon all relevant facts and such traffic study as he shall deem necessary. The director of traffic control shall report such findings to the city council. The director of traffic control shall have the duty to install, erect and maintain all traffic-control devices within the city, or cause the same to be done, in accordance with this article.
- (2) **Reports.** Whenever the director of traffic control has erected and installed any official traffic-control device at any location within the city, or has caused the same to be done under his direction, he shall thereafter file a report with the city secretary in writing, stating the type of traffic-control device, and when and where the same was erected and installed. The city secretary shall file and

* **State law references**—Authority to place and maintain traffic-control devices, V.T.C.A., Transportation Code, sec. 542.202(1); traffic signs, signals and markings, V.T.C.A., Transportation Code, ch. 544.

maintain such report of the director of traffic control along with the official papers of the office of the city secretary.

(1984 Code, secs. 8-2-4, 8-2-10; 1993 Code, sec. 70.17; 2006 Code, sec. 78-23; Ordinance 164, secs. 4, 10, adopted 4/6/81)

Sec. 20.02.005 Placement and maintenance

The director of traffic control shall place and maintain traffic-control devices as he may deem necessary to regulate traffic under the provisions of this article and any applicable ordinances of the city and the laws of this state or to guide or warn traffic. (1984 Code, sec. 8-2-2; 1993 Code, sec. 70.18; 2006 Code, sec. 78-24; Ordinance 164, sec. 2, adopted 4/6/81)

Sec. 20.02.006 Unauthorized devices

It shall be unlawful for any person to place, maintain or display upon or in view of any highway, street or alley any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal. (1984 Code, sec. 8-2-7; 1993 Code, sec. 70.19; 2006 Code, sec. 78-25; Ordinance 164, sec. 7, adopted 4/6/81)

State law reference—Display of unauthorized signs, signals or markings, V.T.C.A., Transportation Code, sec. 544.006.

Sec. 20.02.007 Prohibition of commercial advertising

No person shall place or maintain nor shall any public authority permit upon any highway, street or alley any traffic sign or signal bearing thereon any commercial advertising. This section shall not be deemed to prohibit the erection upon private property adjacent to highways, streets or alleys of signs giving useful directional information and of a type that cannot be mistaken for official traffic-control devices. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the chief of police is hereby empowered to remove the same or cause it to be moved without providing notice. (1984 Code, sec. 8-2-8; 1993 Code, sec. 70.20; 2006 Code, sec. 78-26; Ordinance 164, sec. 8, adopted 4/6/81)

Sec. 20.02.008 Interference

It shall be unlawful for any person without lawful authority to attempt to or in fact alter, deface, injure, damage, knock down or remove any official traffic-control device, sign or signal or any railroad sign or signal or any inscription, shield, or insignia thereon, or any part thereof. (1984 Code, sec. 8-2-9; 1993 Code, sec. 70.21; 2006 Code, sec. 78-27; Ordinance 164, sec. 9, adopted 4/6/81)

State law reference—Interference with traffic-control devices or railroad signs or signals, V.T.C.A., Transportation Code, sec. 544.005.

Sec. 20.02.009 Prima facie evidence of validity

In any prosecution for failure to obey a traffic-control device, or in any prosecution for violation of this article or any other traffic ordinance of the city, proof that a traffic-control device was actually in place on any street shall constitute prima facie evidence that the same was installed by the director of traffic control pursuant to the authority of this article and of any applicable ordinances directing the installation of such traffic-control device, and that such device is an official traffic-control device of the city. (1984 Code, sec. 8-2-11; 1993 Code, sec. 70.22; 2006 Code, sec. 78-28; Ordinance 164, sec. 11, adopted 4/6/81)

Sec. 20.02.010 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 municipal court, shall be subject to a fine not to exceed the sum of

\$500.00 for each offense. Each and every day the violation continues shall constitute a separate offense. (1993 Code, sec. 70.99; 2006 Code, sec. 78-29)

ARTICLE 20.03 TRAFFIC RULES*

Division 1. Generally

Secs. 20.03.001–20.03.040 Reserved

Division 2. Speed Regulations†

Sec. 20.03.041 Posting of signs

The city manager or his designee is hereby authorized to cause to be erected appropriate signs indicating the maximum prima facie reasonable and prudent speed on said public streets enumerated in this division and otherwise by ordinance. (2006 Code, sec. 78-51; Ordinance 05-08-665, sec. 4, adopted 8/8/05)

Sec. 20.03.042 Prima facie speed limits

(a) A person may not operate a vehicle on a street or highway within the corporate limits of the city at a speed greater than the maximum prima facie speed limit of 30 miles per hour unless an increased or reduced speed is necessary for safe operation or in compliance with law.

(b) A speed in excess of 30 miles per hour is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful, unless the prima facie speed limit along a particular street or highway prescribed by this division or by state law is greater than 30 miles per hour.

(c) A speed in excess of 15 miles per hour is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful, unless the prima facie speed limit along a public alley prescribed by this division or by state law is greater than 15 miles per hour.

(2006 Code, sec. 78-52; Ordinance 05-08-665, sec. 2 (71.01), adopted 8/8/05)

State law reference—Prima facie speed limits, V.T.C.A., Transportation Code, sec. 545.352.

Sec. 20.03.043 Engineering and traffic investigation

The city council determines and declares that, based upon an engineering and traffic investigation and in accordance with V.T.C.A., Transportation Code sec. 545.356 (authority of municipality to alter speed limits), the speed limits prescribed by this division are lawful unless an increased or reduced speed is necessary for safe operation or in compliance with law. (2006 Code, sec. 78-53; Ordinance 05-08-665, sec. 2 (71.02), adopted 8/8/05)

Sec. 20.03.044 Requirement to drive at reasonable speed; driving at slow speed

(a) A person may not drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the circumstances existing.

* **State law reference**—Operation and movement of vehicles, V.T.C.A., Transportation Code, ch. 546.

† **State law references**—Authority to establish or alter prima facie speed limits, V.T.C.A., Transportation Code, sec. 542.202(12); speed restrictions, V.T.C.A., Transportation Code, sec. 545.351 et seq.; authority of municipality to alter speed limits, V.T.C.A., Transportation Code, sec. 545.356.

(b) A person may not drive a motor vehicle upon any street or highway within the corporate limits of the city at such a slow speed as to impede the normal and reasonable movement of traffic, unless reduced speed is necessary for safe operation or in compliance with law.

(2006 Code, sec. 78-54; Ordinance 05-08-665, sec. 2 (71.03), adopted 8/8/05)

State law references—Maximum speed requirement, V.T.C.A., Transportation Code, sec. 545.351; minimum speed regulations, V.T.C.A., Transportation Code, sec. 545.363.

Sec. 20.03.045 Prima facie evidence of violation

A speed in excess of the limits prescribed by this division is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful. (2006 Code, sec. 78-55; Ordinance 05-08-665, sec. 2 (71.04), adopted 8/8/05)

Sec. 20.03.046 Penalty

Any person violating any of the speed limit provisions of this division shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed \$200.00. (2006 Code, sec. 78-56; Ordinance 05-09-673, sec. 5, adopted 9/19/05)

Sec. 20.03.047 Speed through school zones

(a) Definition of school days. “School days,” as that term is used in this section, shall be each Monday through Friday on which classes are scheduled during the regular school year on the official calendar of the applicable school district. Each school zone listed in this section shall have the applicable school district calendar noted as follows: “(P)” indicates the Plano Independent School District and “(W)” indicates the Wylie Independent School District. “School days” shall not include days on which classes are not held but does include days on which summer school sessions are held per the school district calendar.

(b) Designation of school zones. The city council may establish school traffic zones on any street or highway or any portion of any street or highway within the corporate limits of the city.

(c) Exceeding posted speed. When any school traffic zone has been established, it shall be unlawful for any person to operate a motor vehicle or any other vehicle in such zone at a speed greater than the posted speed, and any speed in excess of the posted speed shall be prima facie evidence that the speed is neither reasonable nor prudent.

(d) Twenty miles per hour zones. A person commits an offense if he operates a vehicle in a school traffic zone at a speed greater than 20 miles per hour and such operation of a vehicle shall be prima facie evidence that the speed is not reasonable or prudent and is unlawful. The city manager or his designee shall designate school traffic zones with appropriate street markings or signs, which street markings or signs shall be placed at the school zone by the city manager or his designee. The speed limit designated for school traffic zones shall be effective only at times when appropriate signs advising motorists of the speed limit are placed in conspicuous places, complete with school zone speed limit signs and with flashing caution devices, and shall be placed at the following locations:

(1) Betsy Lane (P):

(A) (Westbound) Between a point starting 472 feet east of the easternmost curblineline of Oriole to a stopping point of 270 feet west of the westernmost curblineline of Oriole.

(B) (Eastbound) Between a point starting 520 feet west of the westernmost curblineline of Oriole to a stopping point of 260 feet east of the easternmost curblineline of Oriole.

(2) Clearview (P): Between a point starting 52 feet east of the easternmost curblineline of Oriole to a stopping point of the easternmost curblineline of Oriole.

- (3) Glen Ridge Drive (P): Between a point starting 200 feet west of the westernmost curblin of Ambrose to a stopping point of 120 feet east of the easternmost curblin of Elmhurst.
 - (4) McCreary Road (W): Between a point starting 662 feet north of the northernmost curblin of Waters Edge Way to a stopping point of 285 feet south of the southernmost curblin of Waters Edge Way.
 - (5) McMillen Road (W): Between a point starting 250 feet east of Chisholm Trail to a stopping point 400 feet west of Rosewood Drive.
 - (6) Mustang Ridge Drive (P): Between a point starting 102 feet south of the southernmost curblin of Midstream to a stopping point of the north curblin at Glen Ridge Drive.
 - (7) Oriole (P):
 - (A) Between a point starting 301 feet south of the southernmost curblin of Betsy Lane to a stopping point of 374 feet north of the northernmost curblin of Betsy Lane.
 - (B) Between a point starting 22 feet north of the northernmost curblin of Avondale to a stopping point of the southernmost curblin of Rolling Ridge Drive.
 - (8) Rolling Ridge (P): Between a point starting 90 feet east of the easternmost curblin of Overland to a stopping point of 31 feet east of the easternmost curblin of Featherwood.
 - (9) Rosewood (W): Between a point starting at the north curblin of Waters Edge Way to a stopping point at the south curblin of McMillen Road.
 - (10) Waters Edge Way (W):
 - (A) Between a point starting 92 feet east of the easternmost curblin of Rosewood to a stopping point 75 feet west of the westernmost curblin of Lone Oak.
 - (B) Between a point starting 15 feet east of Paint Creek Road to a stopping point at McCreary Road.
 - (11) Lone Oak Drive (W): Between a point starting on Lone Oak Drive 75 feet from the southern, most curblin [sic] on Waters Edge Way as a stopping point.
- (e) Thirty miles per hour zones. A person commits an offense if he operates a vehicle in a school traffic zone at a speed greater than 30 miles per hour and such operation of a vehicle shall be prima facie evidence that the speed is not reasonable or prudent and is unlawful. The city manager or his designee shall designate school traffic zones with appropriate street markings or signs, which street markings or signs shall be placed at the school zone by the city manager or his designee. The speed limit designated for school traffic zones shall be effective only at times when appropriate signs advising motorists of the speed limit are placed in conspicuous places. School zone speed limit signs, complete with flashing caution device or signs with posted limits, to be placed at the following locations:

- (1) North Murphy Road (P):
 - (A) Beginning at said point (MP 12.186) of FM 2551 (North Murphy Road), thence continuing along FM 2551 (North Murphy Road) in a southerly direction for a distance of 2,878 feet to said point (MP 12.433).
 - (B) To be designated as a school zone 30 miles per hour when so signed for a school zone both directions.

(f) Passing another vehicle in school zone prohibited when school zone speed limit is in effect. Excluding roadways with four or more marked lanes, it shall be unlawful for any person to drive or operate a vehicle through a school zone as designated and established in this section between the school zone hours specified in this section on school days in such a manner as to overtake and pass another vehicle being driven in the same direction upon the same street within the school zone.

(2006 Code, sec. 78-57; Ordinance 05-08-665, sec. 2 (71.05), adopted 8/8/05; Ordinance 07-03-721, sec. 2, adopted 3/19/07; Ordinance 07-12-743, sec. 2, adopted 12/3/07; Ordinance 09-12-827, secs. 2, 3, adopted 12/21/09; Ordinance 11-05-879, sec. 2, adopted 5/3/11; Ordinance 12-09-919, sec. 2, adopted 9/4/12)

Sec. 20.03.048 Speed limits less than 30 miles per hour

(a) Fifteen miles per hour speed limit.

<u>Street Name</u>	<u>Portion of Street</u>
McMillen Road	Beginning at a point 0.300 miles from the intersection of McMillen Road and FM 2551 (North Murphy Road) in an easterly direction of 0.150 miles

(b) Twenty miles per hour speed limit.

<u>Street Name</u>	<u>Portion of Street</u>
Tom Clevenger Drive	In its entirety

(c) Twenty-five miles per hour speed limit. Pursuant to the provisions of V.T.C.A., Transportation Code sec. 545.356(b-1), as amended, no motor vehicle shall be operated within the corporate limits of the city in excess of the maximum prima facie speed limit which is 25 miles per hour at all times along the following public streets:

<u>Street Name</u>	<u>Portion of Street</u>
Abilene Drive	In its entirety
Alabama Court	In its entirety
Alabama Road	In its entirety
Amanda Court	In its entirety
Amber Lane	In its entirety
Ambrose Drive	In its entirety
Amesbury Drive	In its entirety
Angle Ridge Drive	In its entirety
Apache Trail	In its entirety
Ashdon Lane	In its entirety
Ashley Place	In its entirety
Aspen Court	In its entirety
Autumn Hill	In its entirety
Avalanche Drive	In its entirety
Axis Drive	In its entirety
Banbury Drive	In its entirety
Barrister Circle	In its entirety
Bear Creek Drive	In its entirety
Bedell Lane	In its entirety
Beechwood Drive	In its entirety
Berkshire Drive	In its entirety
Blue Flumar Court	In its entirety

<u>Street Name</u>	<u>Portion of Street</u>
Blue Jay Drive	In its entirety
Bonnie Court	In its entirety
Brandon Lane	In its entirety
Brentwood Drive	In its entirety
Briar Oak Drive	In its entirety
Brighton Drive	In its entirety
Brookmere Lane	In its entirety
Brookwood Drive	In its entirety
Buckshot Court	In its entirety
Buffalo Bend Court	In its entirety
Bunny Run Drive	In its entirety
Cactus Path Drive	In its entirety
Cambridge Drive	In its entirety
Camrose Lane	In its entirety
Candlewood Trail	In its entirety
Cane Drive	In its entirety
Canterbury Drive	In its entirety
Cardinal Court	In its entirety
Carolyn Lane	In its entirety
Cave River Drive	In its entirety
Cedarbird Trail	In its entirety
Celebration Parkway	In its entirety
Chalk Hill Lane	In its entirety
Cherokee Drive	In its entirety
Cherry Hill Lane	In its entirety
Chesterfield Drive	In its entirety
Chestnut Court	In its entirety
Chisholm Trail	In its entirety
Christopher Circle	In its entirety
Clay Drive	In its entirety
Clubview Court East	In its entirety
Clubview Court West	In its entirety
Cold Springs Court	In its entirety
Collin Court	In its entirety
Comanche Trail	In its entirety
Condor Drive	In its entirety
Corral Court	In its entirety
Country Meadow Drive	In its entirety
Covington Court	In its entirety
Cowboy Court	In its entirety
Creekside Drive	From McCreary Road to Waters Edge Way
Crepe Myrtle Lane	In its entirety
Crestwick Drive	In its entirety
Crosswind Drive	In its entirety
Dakota Drive	In its entirety
Daleport Drive	In its entirety
Danbury Drive	In its entirety
Daniel Drive	In its entirety
Danmire Drive	In its entirety
Dartmouth Circle	In its entirety
Dedhill Lane	In its entirety

<u>Street Name</u>	<u>Portion of Street</u>
Deerfield Drive	In its entirety
Desperado Drive	In its entirety
Devenshire Drive	In its entirety
Dogwood Drive	In its entirety
Dove Cove Court	In its entirety
Dove Tail Court	In its entirety
Dover Lane	In its entirety
Driftwood Drive	In its entirety
Dublin Road	In its entirety
Duncan Drive	In its entirety
Eagle Way	In its entirety
Echo Ridge Lane	In its entirety
Edgemere Court	In its entirety
Elizabeth Trail	In its entirety
Elmcrest Drive	In its entirety
Elmhurst Drive	In its entirety
Englewood Drive	In its entirety
Falcon Trail	In its entirety
Fallbrook Drive	In its entirety
Featherwood Drive	In its entirety
Finch Court	In its entirety
Flamingo Court	In its entirety
Forest Lane	In its entirety
Fountain Drive	In its entirety
Garden Laurel Drive	In its entirety
Gene Autry Lane	In its entirety
Glenbrook Drive	In its entirety
Glen Ridge Drive	From Heritage Parkway to FM 2551 (North Murphy Road)
Glenwood Drive	In its entirety
Grant Drive	In its entirety
Grantham Lane	In its entirety
Green Acres Drive	In its entirety
Greenfield Drive	In its entirety
Greenfield Road	In its entirety
Greenhill Drive	In its entirety
Greystone Court	In its entirety
Hackberry Drive	In its entirety
Hampstead Drive	In its entirety
Harvest Hill Drive	In its entirety
Havenwood Drive	In its entirety
Hawthorne Drive	From FM 544 to Starlight Drive
Heatherbrook Drive	In its entirety
Hickory Drive	In its entirety
Hickory Top Drive	In its entirety
Hideaway Court	In its entirety
High Plains Drive	In its entirety
High Point Drive	In its entirety
Hillcrest Drive	In its entirety
Hillglen Drive	In its entirety
Hilltop Drive	In its entirety
Holly Court	In its entirety

<u>Street Name</u>	<u>Portion of Street</u>
Hope Circle	In its entirety
Horizon Court	In its entirety
Horizon Drive	In its entirety
Hummingbird Court	In its entirety
Hunters Glen	In its entirety
Huntington Drive	In its entirety
Idaho Court	In its entirety
Idaho Lane	In its entirety
Iowa Road	In its entirety
Jasmine Drive	In its entirety
Jason Circle	In its entirety
John Close	In its entirety
Justin Road	In its entirety
Kali Court	In its entirety
Kansas Trail	In its entirety
Karen Pass	In its entirety
Keathly Circle	In its entirety
Kentwood Drive	In its entirety
Kingsfield Drive	In its entirety
Kinney Drive	In its entirety
Kristen Court	In its entirety
Lakedale Drive	In its entirety
Lakefield Drive	In its entirety
Lakehurst Drive	In its entirety
Lakeside Circle	In its entirety
Laredo Drive	In its entirety
Laurel Hill Lane	In its entirety
Lauren Lane	In its entirety
Leeward Drive	In its entirety
Linhurst Drive	In its entirety
Lochwood Drive	In its entirety
Lone Ridge Way	In its entirety
Lone Star Lane	In its entirety
Lonesome Dove Trail	In its entirety
Lookout Lane	In its entirety
Love Bird Lane	In its entirety
Mallard Trail	In its entirety
Mandeville Drive	In its entirety
Maple Ridge Way	In its entirety
Maple Sugar Drive	In its entirety
Mason Lane	In its entirety
Matthew Way	In its entirety
Maxwell Creek Road (N)	From Poindexter Lane to FM 544
Maxwell Lane	Beginning at the intersecting point of McMillen Road and continuing in northerly direction in its entirety
Mayfield Drive	In its entirety
McMillen Road	Beginning at a point of intersecting with FM 2551 (North Murphy Road) in an easterly direction for a distance of 0.300 miles
Meadowlark Drive	In its entirety
Memorial Hill Way	In its entirety
Meadow Creek Drive	In its entirety

<u>Street Name</u>	<u>Portion of Street</u>
Merideth Drive	In its entirety
Mesquite Court	In its entirety
Michael Drive	In its entirety
Midpark Lane	In its entirety
Midstream Drive	In its entirety
Mimosa Drive	In its entirety
Misty Glen Lane	In its entirety
Mockingbird Drive	In its entirety
Mockingbird Hill Court	In its entirety
Montana Trail	In its entirety
Mockingbird Drive	In its entirety
Moonlight Drive	In its entirety
Morning View Way	In its entirety
Morningside Trail	In its entirety
Morningview Drive	In its entirety
Mustang Ridge Drive	From Heritage Parkway to Glen Ridge Drive
Nevada Trail	In its entirety
Newbury Lane	In its entirety
Newport Court	In its entirety
Nighthawk Drive	In its entirety
Noble Court	In its entirety
North Hill Lane	In its entirety
Northstar Court	In its entirety
Northstar Drive	In its entirety
Oak Glen Drive	In its entirety
Oak Hill Lane	In its entirety
Oakbluff Drive	In its entirety
Oakdale Lane	In its entirety
Oakhurst Drive	In its entirety
Oakley Drive	In its entirety
Oregon Trail	In its entirety
Oriole Drive	From Betsy Lane to Mustang Ridge Drive
Oriole Drive	From Rolling Ridge Drive to Betsy Lane
Overland Drive	In its entirety
Overlook Drive	In its entirety
Owl Creek Drive	In its entirety
Paige Court	In its entirety
Paint Creek Road	In its entirety
Parkshire Drive	In its entirety
Parkside Court	In its entirety
Parkview Lane	In its entirety
Peach Tree Drive	In its entirety
Peacock Trail	In its entirety
Pecos Path	In its entirety
Pelican Way	In its entirety
Pheasant Run	In its entirety
Pine Top Drive	In its entirety
Pioneer Path Drive	In its entirety
Pleasant Run	In its entirety
Poindexter Lane	In its entirety
Ponderosa	In its entirety

<u>Street Name</u>	<u>Portion of Street</u>
Post Crest Drive	In its entirety
Post Oak Trail	In its entirety
Prairie Creek Trail	In its entirety
Prairie Hill Lane	In its entirety
Prairie View Drive	In its entirety
Prescott Drive	In its entirety
Primrose Road	In its entirety
Quail Creek Drive	In its entirety
Quail Hollow Court	In its entirety
Quail Run Drive	In its entirety
Rainforest Court	In its entirety
Rainhurst Lane	In its entirety
Raintree Drive	In its entirety
Ranger Road	In its entirety
Raven Drive	In its entirety
Red Oak Drive	In its entirety
Remington Drive	In its entirety
Ridgestone Drive	In its entirety
Ridgeview Court	In its entirety
Ridgeview Drive	In its entirety
Robin Way	In its entirety
Rocky Glen Circle	In its entirety
Rodeo Drive	From McWhirter Road to Betsy Lane
Rolling Oak Drive	In its entirety
Rolling Ridge Drive	From Oriole Drive to Twin Knoll Drive
Rolling Ridge Drive	From Oriole Drive to FM 2551 (North Murphy Road)
Rosebud Drive	In its entirety
Rosewood Drive	In its entirety
Rothschild Lane	In its entirety
Roy Rogers Lane	In its entirety
Royal Oak Drive	In its entirety
Ryan Court	In its entirety
Sagebrush Trail	In its entirety
Saint Mark Drive	In its entirety
Saint Peter Drive	In its entirety
Salsbury Circle	In its entirety
Sarah Way	In its entirety
Seleta Drive	In its entirety
Seminole Trail	In its entirety
Shady Oaks Drive	In its entirety
Shady Timbers Lane	In its entirety
Shadybrook Drive	In its entirety
Shanandoah Lane	In its entirety
Sheila Avenue	In its entirety
Shelby Trace	In its entirety
Sherwood Drive	In its entirety
Shirehurst Drive	In its entirety
Silver Ridge Drive	In its entirety
Silver Springs Lane	In its entirety
Skyline Drive	In its entirety
Sleepy Hollow Court	In its entirety

<u>Street Name</u>	<u>Portion of Street</u>
Sora Drive	In its entirety
Soren Drive	In its entirety
Sparrow Drive	In its entirety
Spring Ridge Drive	In its entirety
Spring Well Drive	In its entirety
Springdale Drive	In its entirety
Stanford Drive	In its entirety
Starlite Drive	In its entirety
Stonehurst Drive	In its entirety
Sugar Valley Road	In its entirety
Sumac Court	In its entirety
Summer Place	In its entirety
Summerfield Drive	In its entirety
Sundown Way	In its entirety
Sunny Crest Drive	In its entirety
Sunrise Court	In its entirety
Sunset Drive	In its entirety
Swan Court	In its entirety
Sweetgum Drive	In its entirety
Sycamore Drive	In its entirety
Tall Tree Drive	In its entirety
Taylor Trail	In its entirety
Tea Garden Court	In its entirety
Tealwood Drive	In its entirety
Teresa Street	In its entirety
Terrace Mill Drive	In its entirety
Texas Trail	In its entirety
Thomas Drive	In its entirety
Thornwood Drive	In its entirety
Timber Ridge Drive	In its entirety
Timberbluff Lane	In its entirety
Trigger Trail	In its entirety
Twin Knoll Drive	In its entirety
Twin Valley Drive	In its entirety
Walnut Drive	In its entirety
Waters Edge Way	From Creekside Drive to McCreary Road
Waterside Drive	In its entirety
Weeping Willow Drive	In its entirety
Wellington Lane	In its entirety
Wentwood Drive	In its entirety
Westminister Avenue	From Betsy Lane to Driftwood Drive
Westminister Avenue	From Bonnie Court to Driftwood Drive
Westminister Drive	From Betsy Lane to Garden Laurel Drive
Westridge Drive	In its entirety
Westwood Drive	In its entirety
Whisperfield Drive	In its entirety
Whitestone Drive	In its entirety
Willow Bend Drive	In its entirety
Willow Wood Street	In its entirety
Windhaven Drive	In its entirety
Windsor Drive	In its entirety

<u>Street Name</u>	<u>Portion of Street</u>

Windward Drive	In its entirety
Windy Knoll Drive	In its entirety
Woodcrest Circle	In its entirety
Woodglen Drive	In its entirety
Woodlake Drive	In its entirety
Wyoming Drive	In its entirety
Zachary Walk	In its entirety

(2006 Code, sec. 78-58; Ordinance 05-08-665, sec. 2 (71.06), adopted 8/8/05; Ordinance 05-09-673, sec. 2, adopted 9/19/05; Ordinance 07-03-721, sec. 2, adopted 3/19/07; Ordinance 07-05-722, sec. 2, adopted 5/7/07; Ordinance 12-11-928, sec. 2, adopted 11/27/12)

Sec. 20.03.049 Speed limits 30 miles per hour or greater

(a) Thirty miles per hour speed limit. Pursuant to the provisions of V.T.C.A., Transportation Code sec. 545.356, as amended, no motor vehicle shall be operated within the corporate limits of the city in excess of the maximum prima facie speed limit which is 30 miles per hour at all times along the following public streets:

<u>Street Name</u>	<u>Portion of Street</u>

South Maxwell Creek Road	Beginning at the intersecting point of FM 544, thence in a southerly direction to the south city limits
South Maxwell Creek Road	Beginning at the south city limits, in a northerly direction to the intersecting point of FM 544
McMillen Road	Beginning at a point 0.450 miles at a point of intersecting with FM 2551 (North Murphy Road) in an easterly direction to the east city limits
Northbound on South Murphy Road approaching FM 544	Beginning at the intersecting point of FM 544, thence continually in a southerly direction for a distance of 0.150 miles

(b) Thirty-five miles per hour speed limit. Pursuant to the provisions of V.T.C.A., Transportation Code sec. 545.356, as amended, no motor vehicle shall be operated within the corporate limits of the city in excess of the maximum prima facie speed limit which is 35 miles per hour at all times along the following public streets:

<u>Street Name</u>	<u>Portion of Street</u>

Betsy Lane	From the western corporate limits of the city in an easterly direction to the eastern corporate limits
Heritage Parkway	Beginning at the intersecting point of Betsy Lane, thence in a southerly direction to the intersecting point of FM 544
Heritage Parkway	Beginning at the intersecting point of FM 544, thence in a northerly direction to the intersecting point of Betsy Lane
McCreary Road	From McMillen Road to FM 544
McCreary Road	From McMillen Road to McWhirter Road (also known as County Road 247)
McMillen Road	Beginning at a point 0.450 miles at a point of intersecting with FM 2551 (North Murphy Road) in an easterly direction to the east city limits
McMillen Road	Beginning at a point 0.450 miles at a point of intersecting with FM 2551 (North Murphy Road) in an easterly direction to the east city limits. From eastern city limit to Murphy Road in a westerly direction.

(c) Forty miles per hour speed limit. Pursuant to the provisions of V.T.C.A., Transportation Code sec. 545.356, as amended, no motor vehicle shall be operated within the corporate limits of the city in excess of the maximum prima facie speed limit which is 40 miles per hour at all times along the following public streets:

<u>Street Name</u>	<u>Portion of Street</u>
Brand Road	In its entirety
South Murphy Road	Beginning at a point 0.150 miles from the intersecting point of FM 544 for a distance of 0.400 miles

(d) Speed limits for FM 544. Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of V.T.C.A. Transportation Code, sec. 545.356, the following prima facie speed limits indicated for vehicles on the attached exhibit A (strip map) [attached to Ordinance 10-01-829] are hereby determined and declared to be reasonable and safe; and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

- (1) No motor vehicle shall be operated along and upon FM 544 within the corporate limits of the city in excess of speeds set forth in exhibit A.

(e) Speed limits for FM 2551 (North Murphy Road). Pursuant to the provisions of V.T.C.A., Transportation Code sec. 545.356, as amended, no motor vehicle shall be operated within the corporate limits of the city in excess of the maximum prima facie speed limit on FM 2551 (North Murphy Road) as follows: Currently posted at 45 mph from north city limit to 200 block.

(f) Fifty miles per hour speed limit.

<u>Street Name</u>	<u>Portion of Street</u>
FM Highway No. 2551 (North Murphy Road)	Beginning at a point 0.300 miles from the north city limits, continuing in a southerly direction distance of 0.600 miles

(g) Fifty-five miles per hour speed limit.

<u>Street Name</u>	<u>Portion of Street</u>
FM Highway No. 2551 (North Murphy Road)	From a point beginning at the north city limits, thence in a southerly direction for a distance of 0.300 [miles]

(2006 Code, sec. 78-59; Ordinance 05-08-665, sec. 2 (71.07), adopted 8/8/05; Ordinance 05-09-673, sec. 3, adopted 9/19/05; Ordinance 07-03-721, sec. 2, adopted 3/19/07; Ordinance 07-05-722, sec. 3, adopted 5/7/07; Ordinance 08-11-772, sec. 2, adopted 11/17/08; Ordinance 10-01-829, sec. 1, adopted 1/19/10; Ordinance 11-06-884, sec. 1, adopted 6/21/11; Ordinance 12-11-928, sec. 2, adopted 11/27/12)

ARTICLE 20.04 TRUCK ROUTES

Sec. 20.04.001 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:

Commercial vehicle. Any truck-tractor, road tractor, semitrailer, bus, truck or trailer, or combination thereof with a rated carrying capacity in excess of two tons according to the manufacturer's classification, or any other commercial motor vehicle having a rated carrying capacity in excess of two tons according to the manufacturer's classification, or a motor vehicle with more than two axles.

Permittee. A person licensed or operating under a franchise issued by the city to collect and remove solid waste.

Truck route. That part of any street located within the corporate limits of the city which is designated as a “truck route” as set forth in this chapter.

(1993 Code, sec. 71.15; 2006 Code, sec. 78-81; Ordinance 230 adopted 8/19/85; Ordinance 08-11-769, sec. 2, adopted 11/3/08)

Sec. 20.04.002 Use required; exceptions

It shall be unlawful for any person or owner to operate, leave, park or stand or permit to be operated or parked any commercial vehicle on any street within the city which is not a designated truck route. The provisions of this section shall not apply to a commercial vehicle which has left a truck route to deliver a product or service to a designated address within the city. The driver of a commercial vehicle shall have in his possession documents to substantiate the delivery address. The parking of such vehicle at the point of loading or unloading shall be permitted only to the extent reasonably necessary for such loading or unloading and shall not authorize the parking of any such vehicle for any other purpose. However, regardless of destination, commercial vehicles are not permitted on McMillen Road, between North Murphy Road and Rosewood Drive. (1993 Code, sec. 71.16; 2006 Code, sec. 78-82; Ordinance 230 adopted 8/19/85; Ordinance 08-11-769, sec. 3, adopted 11/3/08; Ordinance 10-12-864, sec. 2, adopted 12/6/10)

Sec. 20.04.003 Parking off truck routes

It shall be unlawful for any person or owner to leave, park, or stand or permit to be parked any commercial vehicle on any public or private property within the city which is not zoned for the parking or storage of such vehicles, unless such vehicle is in the process of loading or unloading at a point off a truck route as permitted in section 20.04.002. (1993 Code, sec. 71.17; 2006 Code, sec. 78-83; Ordinance 230 adopted 8/19/85; Ordinance adopting 2015 Code)

Sec. 20.04.004 Erection of signs

The chief of police, or such other person designated by the chief of police, shall erect appropriate signs and markings to designate the truck routes. (1993 Code, sec. 71.18; 2006 Code, sec. 78-84; Ordinance 230 adopted 8/19/85)

ARTICLE 20.05 STOPPING, STANDING AND PARKING*

Division 1. Generally

Secs. 20.05.001–20.05.030 Reserved

Division 2. Off-Street Parking; Storage of Vehicles and Equipment

Sec. 20.05.031 Parking of certain vehicles prohibited in residential and agricultural districts

It shall be unlawful for the owner or driver of a motor vehicle or an owner, occupant or person in charge of property zoned or utilized as agricultural or residential districts to permit the parking, standing or storing of any of the following items listed below exceeding 1-1/2 ton capacity on that property of which that person is in charge, the occupant or owner:

- (1) Truck.

* **State law references**—Authority to regulate parking on private property, V.T.C.A., Local Government Code, sec. 431.001; authority to regulate parking generally, 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.

- (2) Truck tractor.
- (3) Bus.
- (4) Construction equipment (exceeding 1-1/2 tons gross weight).
- (5) Semitrailer.
- (6) Van.
- (7) Commercial motor vehicle.
- (8) Commercial use equipment.
- (9) Any vehicle displaying commercial vehicle plates.

(1993 Code, sec. 72.01; 2006 Code, sec. 78-101; Ordinance 311, sec. 1(a), adopted 12/4/89; Ordinance 98-11-441 adopted 11/16/98; Ordinance 99-05-454 adopted 5/3/99)

Sec. 20.05.032 Parking of certain vehicles prohibited on street or public place

It shall be unlawful for the vehicle owner or driver to leave or park any of the items listed in section 20.05.031 upon any public street, public alley, public parkway, public boulevard or other public place other than allowed for normal pickup and delivery. (1993 Code, sec. 72.02; 2006 Code, sec. 78-102; Ordinance 311, sec. 1(b), adopted 12/4/89)

Sec. 20.05.033 Parking in driveways

(a) It shall be unlawful for the owner, occupant or person in charge of property to permit any motor vehicle or equipment (less than 1-1/2 tons capacity) to be parked or left standing at any time on a surface other than a driveway, except as provided for in section 20.05.035, constructed of concrete, asphalt, gravel, rock or paved parking lot. The driveway shall be located either:

- (1) Between the street or alley and a garage or carport;
- (2) In the side yard adjacent to the main building; or
- (3) On a circular driveway serving the main entrance of the premises.

(b) The driveway in the residential districts shall be no wider than the width of the garage, carport or parking space which it serves and in no event shall the driveway be more than 55 percent of the front yard. For the purposes of this section, a parking lot is defined as a paved surface other than a driveway constructed of concrete, asphalt, gravel or rock used for the parking of equipment, motor vehicles, trucks and vans located in residential districts and nonresidential districts. The parking lot shall not be less than 24 inches wider than the vehicle or equipment parked or stored and no less than three feet longer than the vehicle or equipment parked or stored, and neither shall be less than three inches in depth. In no event shall equipment, motor vehicles, trucks or vans be parked or left standing in any of the districts named above, closer than five feet from the front property line.

(1993 Code, sec. 72.03; 2006 Code, sec. 78-103; Ordinance 311, sec. 1(c), adopted 12/4/89)

Sec. 20.05.034 Time limit for parking in front yard

It shall be unlawful in all residential districts for the owner or driver of a motor vehicle to leave a heavy load vehicle, truck, travel trailer, motor vehicle, motor home, camper, trailer, boat, farm equipment or machinery less

than 1-1/2 tons or any other similar equipment or machinery for more than two days out of any consecutive seven-day period within the front yard between the front building line and the front property line. (1993 Code, sec. 72.04; 2006 Code, sec. 78-104; Ordinance 311, sec. 1(d), adopted 12/4/89)

Sec. 20.05.035 Screening of certain vehicles and equipment parked in back yard or side yard

It shall be unlawful in all residential districts for the owner, occupant or person in charge of property or the owner or driver of a motor vehicle to leave a heavy load vehicle, truck, travel trailer, motor vehicle, motor home, camper, trailer, boat, farm equipment or machinery or any other similar equipment or machinery in the back yard within ten feet of the adjacent property line unless said motor vehicle or equipment is screened by natural objects, plants, fences or other appropriate means so that it is not visible from ordinary view of the adjacent property, street or public right-of-way or on a prepared driveway or parking lot. Between the side building line and the side property line on the side of the lot abutting a street or public right-of-way said motor vehicle or equipment shall be screened as above or on a prepared driveway or parking lot as defined in section 20.05.033(b). (1993 Code, sec. 72.05; 2006 Code, sec. 78-105; Ordinance 311, sec. 1(e), adopted 12/4/89)

Sec. 20.05.036 Visible storage of equipment or materials

It shall be unlawful in any residential or office district for the owner, occupant or person in charge of a property to permit open visible storage of commodities, materials or equipment unless such commodities, materials or equipment are screened from ordinary view of a public right-of-way immediately adjacent to said property as stated in section 20.05.035. (1993 Code, sec. 72.06; 2006 Code, sec. 78-106; Ordinance 311, sec. 1(f), adopted 12/4/89)

Sec. 20.05.037 Notice of violation; removal of vehicle

(a) When it has been determined that a violation exists, a notice shall be issued stating the nature of the violation and that the violation must be corrected within ten days or a request for a hearing for a waiver before city council must be made before the expiration of the ten-day period. The notice must be mailed by certified mail and regular mail or hand delivered as an open letter. If the violation has not been corrected within ten days or if no request for a hearing has been made, a complaint shall be filed in the municipal court.

(b) Upon the determination of a second or additional violations by the same motor vehicle owner or owner occupant or person in charge of property, the city manager or designee may, after receiving authorization from the city police department, without the consent of the owner or operator of a vehicle parked in violation of this division, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the owner's or operator's expense if:

- (1) The owner or operator of the vehicle has received actual notice that the vehicle is in violation of this division and that it will be towed and stored at the vehicle owner's or operator's expense if it is not removed; or
- (2) A conspicuous notice has been attached to the vehicle's front windshield or, if the vehicle has no front windshield, to a conspicuous part of the vehicle, stating:
 - (A) That the vehicle is parked in violation of this division;
 - (B) That the vehicle will be towed and stored at the expense of the owner or operator of the vehicle if it is not removed from the area by a specified time and date, such time and date not being sooner than 12 hours after the notice is attached to the vehicle; and
 - (C) A telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to locate the vehicle.

(c) In addition to the requirements of subsection (b)(1) or (2) of this section, a notice must be mailed on the next business day after the vehicle is towed for a vehicle registered in the state, and no later than the 14th calendar day after the vehicle is towed for a vehicle registered outside the state, to the owner of the vehicle, by certified mail, return receipt requested, to the last address shown for the owner according to the vehicle registration records of the state department of transportation or, if the vehicle is registered in another state, the appropriate agency of that state, stating:

- (1) A description of the vehicle;
- (2) That the vehicle was parked in violation of this division, with a description of the location where it was parked;
- (3) That the vehicle was towed and stored at the expense of the owner or operator of the vehicle; and
- (4) A telephone number that is answered 24 hours a day to enable the owner or operator to locate the vehicle.

(1993 Code, sec. 72.07; 2006 Code, sec. 78-107; Ordinance 311, sec. 2, adopted 12/4/89; Ordinance 99-05-454 adopted 5/3/99; Ordinance adopting 2015 Code)

Secs. 20.05.038–20.05.060

Reserved

Division 3. Parking of Vehicles for Sale

Sec. 20.05.061 Definitions

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

Business day. A Monday, Tuesday, Wednesday, Thursday or Friday, excluding any holiday observed by the city when city administrative offices are closed.

(1993 Code, sec. 72.11; 2006 Code, sec. 78-131; Ordinance 412, sec. II, adopted 8/4/97)

Sec. 20.05.062 Parking restrictions; removal of vehicle authorized; notice requirements

- (a) Vehicles for sale are prohibited near or along major thoroughfares.
- (b) No person shall park on public or private property a motor vehicle, boat, trailer, recreational vehicle or camper (collectively called “vehicle” or “vehicles”) having displayed thereon any writing indicating such vehicle is for sale which is visible from any thoroughfare. This section does not prohibit the occasional display for sale by the registered owner of a vehicle on private property owned by that individual. A violation of this section shall constitute a class C misdemeanor. The provisions of this section shall not apply to a vehicle parked in an area having both a certificate of occupancy issued by the city for the sale of vehicles and a license from the state department of transportation for the sale of vehicles at that location.
- (c) In addition, the city manager or designee may, after receiving authorization from the city police department, without the consent of the owner or operator of a vehicle parked in violation of this section, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the owner’s or operator’s expense if:
 - (1) The owner or operator of the vehicle has received actual notice that the vehicle is in violation of this section and that it will be towed and stored at the vehicle owner’s or operator’s expense if it is not removed; or

- (2) A conspicuous notice has been attached to the vehicle's front windshield or, if the vehicle has no front windshield, to a conspicuous part of the vehicle, stating:
 - (A) That the vehicle is parked in violation of this section;
 - (B) That the vehicle will be towed and stored at the expense of the owner or operator of the vehicle if it is not removed from the area by a specified time and date, such time and date not being sooner than 12 hours after the notice is attached to the vehicle; and
 - (C) A telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to locate the vehicle.

(d) In addition to the requirements of subsection (c)(1) or (c)(2) of this section, a notice must be mailed on the next business day after the vehicle is towed for a vehicle registered in the state, and no later than the 14th calendar day after the vehicle is towed for a vehicle registered outside the state, to the owner of the vehicle, by certified mail, return receipt requested, to the last address shown for the owner according to the vehicle registration records of the state department of transportation or, if the vehicle is registered in another state, the appropriate agency of that state, stating:

- (1) A description of the vehicle;
- (2) That the vehicle was parked in violation of this section, with a description of the location where it was parked;
- (3) That the vehicle was towed and stored at the expense of the owner or operator of the vehicle; and
- (4) A telephone number that is answered 24 hours a day to enable the owner or operator to locate the vehicle.

(1993 Code, sec. 72.12; 2006 Code, sec. 78-132; Ordinance 412, sec. II, adopted 8/4/97; Ordinance adopting 2015 Code)

Sec. 20.05.063 Procedure for towing and storing vehicles; sale of vehicles not reclaimed by owner

(a) Prior to towing a vehicle parked in violation of this division, the city manager or designee shall receive authorization from the city police department, which will take into custody the vehicle through a towing company under contract with the city.

(b) A towing company under contract with the city and that is insured against liability for property damages incurred in towing a vehicle, after receiving authorization from the city police department, may, without the consent of an owner or operator of a vehicle, remove and store the vehicle, and any property on or in the vehicle, at a vehicle storage facility at the expense of the owner or operator, if the towing company has received a written statement from the city manager or designee that:

- (1) The vehicle is parked in violation of this division; and
- (2) The owner or operator of the vehicle has received actual notice that the vehicle is in violation of this division, or a conspicuous notice has been attached to the vehicle for the required period of time in compliance with section 20.05.062(c).

(c) No later than the fifth calendar day after taking the vehicle into custody for a vehicle registered in the state and no later than the 14th calendar day after the vehicle is taken into custody for a vehicle registered outside the state, the towing company shall mail a written notice by certified mail, return receipt requested, to the last

address shown for the owner and lienholder, if any, according to the vehicle registration records of the state department of transportation or, if the vehicle is registered in another state, the appropriate agency of that state, stating:

- (1) A description of the vehicle;
- (2) That the towing company is in possession of the vehicle as a result of it being towed;
- (3) A description of where the vehicle was towed from and when it was towed to the towing company's storage facility;
- (4) That the city authorized the tow;
- (5) The name and telephone number of the towing company and the address where the vehicle is stored where it may be reclaimed;
- (6) That the vehicle may be reclaimed upon presentation of proof of ownership and payment of towing, storage and notification fees;
- (7) The amount of the towing, storage and notification fees; and
- (8) That if the vehicle remains at the storage facility for 20 days or more after the date of the notice, unclaimed, the towing company will declare it to be abandoned. Such failure to reclaim the vehicle shall be deemed a waiver of the owner's and lienholder's right, title and interest in the vehicle and their consent to the sale of the vehicle at a public auction to be held on or after a specified date.

(d) Notice by publication in a newspaper of general circulation in the city is sufficient notice under subsection (c) of this section if:

- (1) The identity of the last registered owner cannot be determined;
- (2) The registration has no address for the owner; or
- (3) The determination with reasonable certainty of the identity and address of all lienholders is impossible.

The notice of publication must be published in the same period and contain the same information required by subsection (c) of this section. The publication may contain a list of more than one vehicle.

(e) An owner or operator of the vehicle shall be entitled to the rights of owners of stored vehicles as set forth in V.T.C.A., Occupations Code, chapter 2308, as amended, which chapter is incorporated herein by reference.

(f) A towing company which tows a vehicle under this division shall be entitled to receive from the owner, operator or lienholder the expense of towing and storage of the vehicle, including the costs of notification. Such expenses shall be a priority lien against the vehicle and may be deducted from the sale of the vehicle at a public auction.

(g) If the vehicle is not reclaimed by the owner or lienholder by paying the full expense of towing, storage, preservation and notification within 20 days after the date of notification provided in subsection (c) or (d) of this section, then the owner and lienholder waive all rights and interests in the vehicle and consent to the sale of the vehicle by public auction. In such event, the towing company under contract with the city may sell the vehicle at a public auction.

(h) The purchaser of a vehicle at a public auction:

- (1) Takes title free and clear of all liens and claims of ownership;

- (2) Shall receive a sales receipt from the city police department; and
 - (3) Is entitled to register the vehicle and receive a certificate of title.
- (i) The towing company under contract with the city, from and after it is authorized to tow the vehicle by the city police department as provided in subsection (a) of this section, shall be acting on behalf of the city police department. Such towing company is entitled to reimbursement from the proceeds of the sale of a vehicle for:
- (1) The cost of the auction;
 - (2) The towing, preservation and storage fees resulting from taking the vehicle into custody; and
 - (3) The cost of notice and publication.
- (j) After deducting the reimbursement allowed under subsection (i) of this section, the proceeds of the sale shall be held for 90 days for the owner or lienholder of the vehicle. After such time period, proceeds unclaimed by the owner or lienholder shall be deposited in the city general fund.

(1993 Code, sec. 72.13; 2006 Code, sec. 78-133; Ordinance 412, sec. III, adopted 8/4/97; Ordinance adopting 2015 Code)

Secs. 20.05.064–20.05.090 Reserved

Division 4. Prohibited and Restricted Parking

Sec. 20.05.091 Presumption that owner of vehicle is responsible for offense

In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where and for the time during which such violation occurred. (1993 Code, sec. 72.26; 2006 Code, sec. 78-157; Ordinance 424, sec. VII, adopted 4/6/98)

State law reference—Presumption that owner of vehicle is responsible for offense, V.T.C.A., Transportation Code, sec. 545.308.

Sec. 20.05.092 Prohibited parking generally

No person shall park, stop or stand a vehicle in violation of any official sign, curb marking or street marking erected as provided for in this division. (1993 Code, sec. 72.20; 2006 Code, sec. 78-151; Ordinance 424, sec. I, adopted 4/6/98)

Sec. 20.05.093 Unattended or inoperable vehicles

(a) No person shall allow a vehicle to remain unattended in any place maintained by any governmental entity for a period of time in excess of 48 hours. After such a period of time, if the owner thereof cannot be located by reasonable effort, such vehicle may be impounded. The occasional movement of a vehicle within the same public area for the purpose or effect of evading the restriction imposed by this section shall not toll the running of the 48-hour period prescribed herein.

(b) No person shall park a vehicle in any place maintained by any governmental entity unless such vehicle is currently in operable condition and in a state of good repair.

(c) For the purpose of this section:

Currently in operable condition. Presently capable of being lawfully operated on the streets and highways of the state, being currently registered with proper license plates displayed, having a current safety inspection and being in running condition without the necessity of first being repaired such as, but not limited to, the inflating of tires or charging of the battery.

Place maintained by any governmental entity. Means, but is not limited to, a street, alley, highway, park or public parking area, including the grounds of a public school.

State of good repair. The absence of such items as broken glass, substantial body damage (including, but not limited to, crushed or missing fenders, body panels, doors, hoods, or truck deck) or missing parts otherwise necessary for operable condition.

Vehicle. A motor vehicle, trailer, wagon, boat or similar item.

(d) The affixing of a legible notice to the vehicle regarding the prohibition of this section shall be deemed to be a reasonable effort to locate the owner.

(e) This section shall not apply to storage or repair facilities owned, operated or maintained by a governmental entity. Nothing contained in this section shall be construed to restrict or prevent the immediate removal of a vehicle in such cases otherwise allowed by law.

(1993 Code, sec. 72.21; 2006 Code, sec. 78-152; Ordinance 424, sec. II, adopted 4/6/98)

State law references—Unattended vehicle, V.T.C.A., Transportation Code, sec. 545.404; removal of unlawfully stopped vehicle, V.T.C.A., Transportation Code, sec. 545.305.

Sec. 20.05.094 Parking for purpose of displaying vehicle for sale or washing or repairing vehicle

No person shall stand or park a vehicle upon any public street, shopping center parking lot, park, playground or athletic field for the principal purpose of displaying it for sale. No person shall wash, grease or repair any vehicle upon any public street, playground, or athletic field, except for such repairs necessitated by an emergency. (1993 Code, sec. 72.22; 2006 Code, sec. 78-153; Ordinance 424, sec. III, adopted 4/6/98)

Sec. 20.05.095 Ten feet of roadway to be left available for traffic

No person shall stop, stand or park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten feet of the width of either lane of a roadway for free movement of the vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals of a police officer. (1993 Code, sec. 72.23; 2006 Code, sec. 78-154; Ordinance 424, sec. IV, adopted 4/6/98)

Sec. 20.05.096 Parking in alley

(a) No person, except physicians on emergency calls, shall stop, stand or park a vehicle at any time upon any alley of the city except for the purpose of loading or unloading for a period of time not in excess of 30 minutes. All loading and unloading shall be in such a manner and under such conditions as to not block the alley or leave insufficient width of the alley available for the free movement of vehicular traffic or to block the entrance or exit to any private driveway or building.

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

- (1) To emergency vehicles operating in response to any emergency call;

- (2) To vehicles operated by a public utility while cruising in an assigned area for the purpose of inspecting the facilities of such public utility or providing maintenance service to such facilities;
- (3) To vehicles operated for public service, i.e., garbage pickup, street repair and water service; and
- (4) To a vehicle traveling to or from a location which is designated as a no through truck zone for the purpose of providing repair or maintenance service, or loading or unloading goods, wares or merchandise, provided such vehicle is operated over the shortest practicable route, and the operator of such vehicle has in his immediate possession evidence of the local destination and point of origin.

(1993 Code, sec. 72.24; 2006 Code, sec. 78-155; Ordinance 424, sec. V, adopted 4/6/98)

Sec. 20.05.097 Overnight parking

(a) No person shall stop, stand or park any vehicle with a rated capacity of three-quarters ton or more, or with more than four wheels, or any truck, truck-tractor, trailer, semitrailer, pole trailer or any combination thereof, on any street during the hours from sundown to sunup.

(b) Temporarily disabled vehicles which are protected by flares or other approved signal devices may be parked on the street during the hours from sundown to sunup.

(1993 Code, sec. 72.25; 2006 Code, sec. 78-156; Ordinance 424, sec. VI, adopted 4/6/98)

Sec. 20.05.098 Use of bus stops by other vehicles

No person shall stop, stand or park a vehicle other than a bus in a bus stop when any such stop has been officially designated and appropriately signed; provided, however, that the driver of a passenger vehicle may stop for the expeditious loading or unloading of passengers when such stopping does not interfere with any bus waiting to enter or about to enter such zone. (1993 Code, sec. 72.27; 2006 Code, sec. 78-158; Ordinance 424, sec. VIII, adopted 4/6/98)

Sec. 20.05.099 Standing or parking on sidewalk

No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, on a sidewalk or any part of the sidewalk area, which area is hereby defined as the entire space between the curblineline or the lateral line of a roadway and the adjacent property line along any street, irrespective of whether such area has been improved by concrete, gravel or other walkways. (1993 Code, sec. 72.28; 2006 Code, sec. 78-159; Ordinance 424, sec. IX, adopted 4/6/98)

Sec. 20.05.100 Loading or unloading tractors and trailers on roadway

No person shall cause, suffer or permit a road tractor, trailer or semitrailer to be unloaded or loaded on a roadway, except for delivery of goods, wares and merchandise permitted by ordinance. (1993 Code, sec. 72.29; 2006 Code, sec. 78-160; Ordinance 424, sec. X, adopted 4/6/98)

Sec. 20.05.101 Parking on thoroughfares

Except when necessary to avoid conflict with other traffic or in compliance with law or directions of a police officer or official traffic-control device, it shall be unlawful for any person to park a vehicle:

- (1) Within any portion of the right lane of the main-traveled portion of a roadway on a street within the incorporated city limits, which street consists of four or more lanes for vehicular travel and is a two-way street; or

- (2) Within any portion of the right lane or of the left lane of the main-traveled portion of a roadway on a street within the incorporated city limits, which street consists of two or more lanes for vehicular travel and is a one-way street.

(1993 Code, sec. 72.30; 2006 Code, sec. 78-161; Ordinance 424, sec. XI, adopted 4/6/98)

Sec. 20.05.102 Parallel and angle parking

(a) At any place where official signs do not prohibit stopping or parking, except as otherwise provided by the city council and so indicated by signs or markings, every vehicle stopped or parked shall be so stopped or parked upon a roadway where there are adjacent curbs so that the right-hand wheels of such vehicle are parallel to and within 18 inches of the right-hand curb or edge of the roadway, except where head-in parking is allowed.

(b) The department of public works, with the approval of the city council, shall determine upon which streets angle parking shall be permitted and shall mark or sign such streets, but such angle parking shall not be indicated upon any federal aid or state highway within this city unless the director of the state department of transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street or upon any railway tracks.

(c) Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(d) Whenever parking spaces are marked by lines on the pavement, whether for parallel or angle parking, a vehicle must be parked entirely within the lines of the parking space.

(1993 Code, sec. 72.31; 2006 Code, sec. 78-162; Ordinance 424, sec. XII, adopted 4/6/98)

State law reference—Additional parking regulations, V.T.C.A., Transportation Code, sec. 545.303.

Sec. 20.05.103 Parking prohibited in certain places

No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or directions of a police officer or traffic-control device, in any of the following spaces:

- (1) On a sidewalk:
 - (A) In front of a public or private driveway;
 - (B) Within an intersection;
 - (C) Within 15 feet of a crosswalk or intersection, unless the traffic authorities indicate a different length by signs or markings;
- (2) On a crosswalk, within 20 feet of a crosswalk or intersection, unless the traffic authorities indicate a different length by signs or markings;
- (3) Within 30 feet of a stop sign or marking of a roadway where vehicles would normally stop; and
- (4) Where signs are erected or curbs are painted indicating that such is not allowed.

(1993 Code, sec. 72.32; 2006 Code, sec. 78-163; Ordinance 424, sec. XIII, adopted 4/6/98)

State law reference—Stopping, standing or parking prohibited in certain places, V.T.C.A., Transportation Code, sec. 545.302.

Secs. 20.05.104–20.05.130 Reserved

Division 5. Parking for Disabled Persons***Sec. 20.05.131 Definitions**

The definition found in V.T.C.A., Transportation Code, section 681.001, relating to “disability,” shall apply to this division. The definition of “disabled veteran” found in V.T.C.A., Transportation Code, section 504.202 shall apply to this division. (1993 Code, sec. 72.40; 2006 Code, sec. 78-181; Ordinance 426, sec. 2, adopted 5/18/98)

Sec. 20.05.132 Designation of spaces on public property

The traffic engineer may designate specific parking spaces on public property for use by disabled veterans, disabled persons and temporarily disabled persons. Such parking spaces shall be designated by posting appropriate signs conforming to the provisions of V.T.C.A., Transportation Code, section 681.009. (1993 Code, sec. 72.41; 2006 Code, sec. 78-182; Ordinance 426, sec. 3, adopted 5/18/98)

Sec. 20.05.133 Designation of spaces on off-street parking facility; signs

The person who owns or controls any off-street parking facility may designate specific parking spaces for use by disabled veterans, disabled persons and temporarily disabled persons. Such parking spaces shall be designated by posting, at the owner’s expense, appropriate signs conforming to the provisions of V.T.C.A., Transportation Code, section 681.009. (1993 Code, sec. 72.42; 2006 Code, sec. 78-183; Ordinance 426, sec. 4, adopted 5/18/98)

ARTICLE 20.06 MOTOR-ASSISTED SCOOTERS AND NEIGHBORHOOD ELECTRIC VEHICLES[†]**Sec. 20.06.001 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:

Adult. Any individual 16 years of age or older.

Child. Any individual under 16 years of age.

Designated areas. An area within the city to be determined by the city council for future use.

Helmet. Properly fitted protective headgear that is not structurally damaged and that conforms to the standards of the American National Standards Institute, the American Society for Testing and Materials, the Snell Memorial Foundation or any federal agency having regulatory jurisdiction over bicycle helmets, as applicable, at the time of the manufacture of the helmet.

Motor-assisted scooter. Shall have the same meaning assigned by V.T.C.A., Transportation Code sec. 551.351, as it exists or may be amended, and includes a self-propelled device with at least two wheels in contact with the ground during operation, a braking system capable of stopping the device under typical operating conditions, a gas or electric motor 40 cubic centimeters or less, a deck designed to allow a person to stand or sit while operating the device, and the ability to be propelled by human power alone. The rules of operation governing bicycles found in V.T.C.A., Transportation Code ch. 551, as amended, apply to motor-assisted scooters.

Neighborhood electric vehicle. Shall have the same meaning assigned by V.T.C.A., Transportation Code sec. 551.301, as it exists or may be amended, subject to Federal Motor Vehicle Safety Standard 500. This vehicle must have three to four wheels in contact with the ground during operating conditions, an electric motor 40 cubic centimeters or less, and a deck designed to allow one to four people to sit while the device is in operation. This

* **State law reference**—Privileged parking for persons with disabilities, V.T.C.A., Transportation Code, ch. 681.

† **State law reference**—Neighborhood electric vehicles and motor-assisted scooters, V.T.C.A., Transportation Code, sec. 551.301 et seq.

electric device generally resembles a golf cart with a top speed between 20 miles per hour and 25 miles per hour. However, unlike the motor-assisted scooter, a neighborhood electric vehicle must be registered and have a license plate. The operator must have a driver's license and the vehicle or operator must be covered with the required liability insurance or acceptable substitute. In addition, these vehicles meet V.T.C.A., Transportation Code sec. 547.001, as it exists or may be amended, definition of a "slow moving vehicle," and must carry a low speed vehicle emblem. The rules of operation governing bicycles found in V.T.C.A., Transportation Code ch. 551, as amended, apply to neighborhood electric vehicles.

Parent. The natural or adoptive parent or court-appointed guardian or conservator of a child.

Public way or public property. Real property owned, leased or controlled by a political subdivision of the state, a governmental entity or agency, or similar entity, or any property that is publicly owned or maintained or dedicated to public use, including, but not limited to, a path, trail, sidewalk, alley, street or highway and a public park facility.

Wearing a helmet. Means that the person has a helmet fastened securely to his head with the straps of the helmet securely tightened in the manner intended by the manufacturer to provide maximum protection.

(2006 Code, sec. 78-261; Ordinance 04-05-611, sec. 2 (130.35), adopted 5/17/04)

Sec. 20.06.002 Restrictions and prohibitions on operation

(a) **Restrictions and prohibitions.**

- (1) It is unlawful for any child to operate or ride a motor-assisted scooter on any path, trail, alley, highway or public park within the city, except in designated areas.
- (2) It is unlawful for a parent to allow or permit a child to operate or ride a motor-assisted scooter on any path, trail, alley, highway or public park within the city, except in designated areas.
- (3) It is presumed that a parent allowed a child to operate or ride a motor-assisted scooter in a restricted or prohibited area.
- (4) It is unlawful for anyone to ride in or operate a neighborhood electric vehicle on any path, trail, sidewalk, alley, street, highway or public park within the city.
- (5) It is unlawful to operate or ride on a motor-assisted scooter on streets which have a posted speed limit higher than 25 miles per hour.
- (6) It is unlawful to operate or ride on a motor-assisted scooter other than the hours between sunrise and sunset.
- (7) It is unlawful for a child under eight years of age to operate or ride on a motor-assisted scooter or a neighborhood electric vehicle on a public street, path, trail, alley, highway, or public park within the city, except in designated areas.

(b) **Penalty.**

- (1) A person who violates any provision of subsection (a) of this section shall be guilty of a class C misdemeanor and upon conviction shall be fined an amount not exceeding \$50.00 upon the first conviction and an amount not exceeding \$100.00 upon the second and each subsequent conviction.
- (2) The purpose of this section is to promote safety and discourage the use of motor-assisted scooters or neighborhood electric vehicles in unsafe areas. The courts may consider deferred dispositions

under the Texas Code of Criminal Procedure, as amended, whenever the circumstances warrant deferred dispositions.

(2006 Code, sec. 78-262; Ordinance 04-05-611, sec. 2 (130.36), adopted 5/17/04)

Sec. 20.06.003 Helmets required for children

(a) Helmet required.

- (1) It is unlawful for any child to operate or ride a motor-assisted scooter unless the child is wearing a helmet.
- (2) It is unlawful for a parent to allow or permit a child to operate or ride a motor-assisted scooter unless the child is wearing a helmet.
- (3) It is presumed that a parent allowed a child to operate or ride a motor-assisted scooter without wearing a helmet.
- (4) It is a defense to prosecution that the motor-assisted scooter was not being operated upon public property or a public way at the time of the alleged offense.

(b) Penalty.

- (1) A person who violates any provision of subsection (a) of this section, requiring helmets, shall be guilty of a class C misdemeanor and upon conviction shall be fined an amount not exceeding \$50.00 upon the first conviction and an amount not exceeding \$100.00 upon the second and each subsequent conviction.
- (2) The municipal court shall dismiss a charge against a child and/or parent for a first offense under subsection (a) of this section, upon receiving proof that:
 - (A) The defendant acquired a helmet for the child who was operating or riding the motor-assisted scooter in violation of subsection (a) of this section; and
 - (B) The defendant acquired the helmet on or before the tenth day after receiving the citation of the violation.
- (3) The purpose of this section is to promote safety and encourage the use of helmets. The courts may consider deferred dispositions under the Texas Code of Criminal Procedure, as amended, whenever the circumstances warrant deferred dispositions.

(2006 Code, sec. 78-263; Ordinance 04-05-611, sec. 2 (130.37), adopted 5/17/04)

ARTICLE 20.07 TRAFFIC SCHEDULES

Sec. 20.07.001 Schedule I, speed on specific streets and other locations

The speed limits for specific streets and other locations are as set out in sections 20.03.047 through 20.03.049. (1993 Code, ch. 73, sch. I; 2006 Code, sec. 78-201)

Sec. 20.07.002 Schedule II, truck routes

The following streets or portions of streets are designated as truck routes:

Street	Extent	Ord. No.	Date Passed
Murphy Road	City limit to city limit	230	8/19/85
Farm Market Road 544	City limit to city limit	230	8/19/85

(1993 Code, ch. 73, sch. II; 2006 Code, sec. 78-202)

CHAPTER 21

RESERVED

CHAPTER 22

UTILITIES

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ARTICLE 22.01 GENERAL PROVISIONS***Sec. 22.01.001 Rates and charges**

The monthly rates or charges for water service, including charges established for sewer service and garbage collection, furnished by the city water department, and other charges in connection with the connection and disconnection of water service, installation of meters and like charges, shall be established from time to time by separate resolution of the city council. (1984 Code, sec. 3-1-3; 1993 Code, sec. 51.01; 2006 Code, sec. 82-21; Ordinance 212, sec. 3, adopted 11/7/83; Ordinance 242, sec. 1, adopted 4/7/86)

ARTICLE 22.02 SOLID WASTE†**Sec. 22.02.001 Mandatory use of collection service**

It shall be mandatory that each residence and commercial establishment within the corporate limits of the city take and subscribe to the garbage collection service offered by the city through its garbage franchise operator. (1984 Code, sec. 3-4-2; 1993 Code, sec. 50.01; 2006 Code, sec. 62-1; Ordinance 161 adopted 4/6/81)

Sec. 22.02.002 Collection of fees

The city manager is authorized to add the garbage collection fees as heretofore or from time to time established by the city council for garbage collection service to the monthly water/sewer bill of every residence or commercial user that is connected to the city water and sewer system. (1984 Code, sec. 3-4-3; 1993 Code, sec. 50.02; 2006 Code, sec. 62-2; Ordinance 161 adopted 4/6/81; Ordinance adopting 2015 Code)

Sec. 22.02.003 Residential containers and recycle bins

(a) Residential units shall be provided an approved trash receptacle and recycle bin provided by the city designated waste collection contractor. The approved receptacle or receptacles shall be roll-out containers. The volume of the container will be designated by the city. The monthly fees assessed on the customer utility bill shall be based on number of containers requested by the customer(s).

(b) The container(s) shall be issued to a residential address and shall not be removed from the premises.

(c) The roll-out containers and recycle bins shall be the property of the waste collection contractor and must not be painted, marked, abused, mutilated, altered or modified in any way. Abuse and damage to a container by customers shall result in an assessment equal to the replacement cost of the containers.

(d) The containers shall be placed at the curb or designated collection point no earlier than 4:00 p.m. prior to the scheduled collection day and no later than 7:00 a.m. on the scheduled collection day. The containers must be placed at or near the driveway approximately four feet from any mailbox or other obstacle. The containers must be placed between the sidewalk and the curb. No container may be placed in the street or be placed on any part of a sidewalk. The city manager or his designee may make reasonable exceptions to the foregoing location requirements as needed to meet unique circumstances or to avoid undue hardship caused by literal compliance.

(e) The containers shall be removed from the curb or designated collection point no later than noon the day after the regular scheduled pickup for the residential unit.

* **Charter references**—Utility and public service franchises, art. X; placement of wires, etc., underground, sec. 10.07.

State law references—Municipal utilities generally, V.T.C.A., Local Government Code, ch. 402; municipal jurisdiction over electric utility, V.T.C.A., Utilities Code, ch. 33; municipal jurisdiction over water and sewer utility rates, operations and services, V.T.C.A., Water Code, sec. 13.042; municipal jurisdiction over rates, operations and services of gas utility, V.T.C.A., Utilities Code, ch. 103; 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.

- (f) A stolen container shall be reported to the police department and the utility billing department.
- (g) Trash containers and recycle bins shall be placed and kept behind the front building line except as allowed in subsections (d) and (e) when they are placed adjacent to the street for emptying by the designated waste collection contractor for the city.

(1993 Code, sec. 50.03; 2006 Code, sec. 62-3; Ordinance 03-12-595 adopted 12/1/03; Ordinance 06-10-706, sec. 2, adopted 10/2/06; Ordinance adopting 2015 Code)

ARTICLE 22.03 WATER AND SEWER DEPARTMENT

Sec. 22.03.001 Established

There is hereby created the city water and sewer department. (1984 Code, sec. 3-1-1; 1993 Code, sec. 51.85; 2006 Code, sec. 82-181; Ordinance 212, sec. 1, adopted 11/7/83)

Sec. 22.03.002 Public works superintendent

The city manager shall designate a city employee who shall act as the public works superintendent, and such superintendent shall perform all duties placed upon him by the city manager and such other duties prescribed by the provisions of this chapter and state statutes. (1984 Code, sec. 3-1-2; 1993 Code, sec. 51.86; 2006 Code, sec. 82-182; Ordinance 212, sec. 2, adopted 11/7/83; Ordinance adopting 2015 Code)

ARTICLE 22.04 WATER SERVICE*

Sec. 22.04.001 Penalty

Whoever violates any provision of this article for which no penalty is otherwise provided shall be subject to the penalty provision set forth in section 1.01.009. (1993 Code, sec. 51.99(a); 2006 Code, sec. 82-183(a))

Sec. 22.04.002 Conditions for furnishing service; disconnection of service

(a) Meter required; dual connections. All water shall be furnished on a metered basis and a separate meter shall be installed for each family dwelling and business establishment, except by consent of the city manager in regard to a meter serving the entire building (for example, a strip shopping center) or property served with water and sewer. There shall be no dual connection or more than one user on a single residential meter.

(b) Application for water connection. It shall be unlawful for any person to make any connection to the mains or pipes of the waterworks system without first making application to the city, stating fully the several and various uses for which water is desired. If the application is approved by the public works superintendent, a receipt will be issued upon payment of all deposits, fees and charges established by the city council.

(c) Billing of charges; consolidated billing; late payment. Monthly charges for water (including charges established for sewer service and garbage collection) including late fees shall be billed in accordance with the adopted fee schedule.

(d) Reasons for discontinuance of service. Water and/or garbage collection services may be discontinued for any of the following reasons:

- (1) Failure of a customer or user of the waterworks system to pay a monthly charge within 30 days from the billing date shall be grounds for the city to disconnect the service so supplied, and such

* **State law reference**—Water system in home-rule municipality, V.T.C.A., Local Government Code, sec. 402.017.

service shall not be resumed until the total amount due the city and the reconnection fee for the water service has been collected, regardless of the amount of the customer's security deposit.

- (2) A finding by the public works superintendent that such customer is in violation of any of the acts prohibited by this article.

(e) Notice of disconnection of service; access to premises. Notice of disconnection of water service shall consist of a mailing or hand delivery to the customer at least five days prior to the date of disconnection. The city shall have access to its meters, equipment and other property located on a customer's premises at all reasonable times and for the purposes connected with or in furtherance of its business operations, and may remove such property from customer's premises. The city shall be under no duty or obligation to inspect, maintain or repair the pipes, equipment or facilities belonging to a customer and shall not be liable for damages thereto or arising therefrom.

(f) Testing of meters. In the event a customer questions the accuracy of the meter serving his property, such meter shall be checked by the water department. If the public works superintendent is of the opinion that the meter is operating properly and the customer continues to question the accuracy of the meter, the city shall change out the meter and the meter removed from the customer's property shall be tested by an independent testing firm. If the meter is inaccurate more than one percent, the city shall pay the cost of the new meter. If the meter is accurate within one percent or less, the customer shall pay the city charge for a new meter.

(g) Deposit. The city council shall, from time to time, establish by resolution a schedule of deposits required of all customers receiving water services.

(h) Indemnification of city. All water service customers shall be held responsible for and indemnify the city against any injury or loss of city-owned property and equipment while it is on customer's premises arising out of or caused by the negligence, carelessness or willful act of the customer or his servants, agents, employees or any member of his household, or any person or persons upon his premises by authority of his consent or sufferance.

(1984 Code, sec. 3-1-4; 1993 Code, sec. 51.02; 2006 Code, sec. 82-22; Ordinance 212, sec. 4, adopted 11/7/83; Ordinance 242, sec. 2, adopted 4/7/86; Ordinance adopting 2015 Code)

Sec. 22.04.003 Free service prohibited

No free water or utility service shall be permitted, and to the extent the city or any of its agencies or instrumentalities shall avail themselves of the services and facilities provided by the waterworks system, they shall pay therefor the same rates and charges as established for other customers. (1984 Code, sec. 3-1-5; 1993 Code, sec. 51.03; 2006 Code, sec. 82-23; Ordinance 212, sec. 5, adopted 11/7/83)

Sec. 22.04.004 Interference with waterworks system

It shall be unlawful for any person to do, commit or assist in the committing of any of the following acts:

- (1) To open or close any fire hydrant, gate valve or stopcock connected with the waterworks system, or lift or remove the covers of any gate valve or shut-offs thereof, without the permission of the public works superintendent, except in case of fire, and then under the direction of officers of the fire department.
- (2) To interfere with, destroy, deface, injure or wantonly force open any gate or door, or in any way whatsoever destroy, injure or deface any part of any engine house, reservoir, standpipe, elevated tank, building or buildings, or appurtenances, fences, trees, shrubs or fixtures or property appertaining to the waterworks system.
- (3) To go upon or ascend the stairway or step on any elevated water storage tank or standpipe of the waterworks system, except by permission of the public works superintendent and the city manager.

- (4) To place any telegraph, telephone, electric light pole or any obstruction whatsoever within three feet of any fire hydrant.
- (5) To resort to any fraudulent device or arrangement for the purpose of procuring water for himself or others from private connections on premises contrary to the provisions of this code.
- (6) To place upon or about any fire hydrant, gate, valve or curb cock connected with the waterworks system any object, material, debris or structure of any kind, or to interfere in any manner whatsoever with any of the waterworks, or to turn on the water after service has been disconnected.
- (7) To park a vehicle within 15 feet of any fire hydrant.
- (8) To make or permit to be made any connections with the main, or service pipes, or the waterworks system, or to turn on or use the water of the system without first obtaining a permit therefor.
- (9) To remove any water meter that has been placed by the city, or to in any manner change, interfere with or tamper with any water meter; provided that the provisions of this section shall not apply to the employees of the city when acting in their official capacity.
- (10) To install or maintain any utility bypass or connection between the utility meter and the main source of supply, except as may be installed upon written permission from the city and the utility company, if any, furnishing such utility through a franchise granted by the city.
- (11) To use any utility after the same has been cut off by the city, its agents or the utility company furnishing such utility under a franchise granted by the city, without first having secured a new permit. The discovery of an unauthorized bypass as above mentioned shall be prima facie evidence that such bypass was installed by and maintained by the person or persons to whom the utility service is received through such unauthorized bypass. Also, after a utility service has been turned off by the city, discovery that the utility meter valve has been turned on without authorization shall be prima facie evidence that the person to whom the utility service is being received turned on such utility meter valve.
- (12) To receive water through the water meter of another after service has been terminated because of nonpayment of the water bill or to furnish water through one's water meter to the property of another whose water service has been terminated because of nonpayment of the water bill. The existence of any unauthorized pipe, hose or other method of transmitting water between such properties, as the case may be, is in violation of the provisions of this section.
- (13) To connect or maintain any system of water lines through which water from a private well or water from any other source other than that furnished by the city may, under any circumstance, be introduced into or commingled with the city waterworks system.

(1984 Code, sec. 3-1-6; 1993 Code, sec. 51.04; 2006 Code, sec. 82-24; Ordinance 212, sec. 6, adopted 11/7/83; Ordinance adopting 2015 Code)

Sec. 22.04.005 Water theft

(a) Offenses. A person commits an offense of theft of water by any of the following actions:

- (1) A person may not knowingly tamper with, connect to, or alter any component of the city's water system, including valves, meters, meter boxes, lids, hydrants, lines, pump stations, ground storage tanks, and elevated storage tanks. This shall include direct or indirect efforts to initiate or restore water service without the approval of the city.

- (2) If, without the written consent of the city manager or the city manager's designee, the person knowingly causes, suffers or allows the initiation or restoration of water service to the property after termination of service(s). For purposes of this section, it shall be assumed that the owner, occupant, or person in control of the property caused, suffered, or allowed the unlawful initiation or restoration of service(s).
 - (3) A person may not knowingly make or cause a false report to be made to the city of a reading of a water meter installed for metered billing.
 - (4) A person commits a separate offense each day that the person performs an act prohibited by this section or fails to perform an act required by this section.
- (b) **Penalty.** An offense under this section is a class C misdemeanor punishable by a fine of up to \$2,000.00 and/or discontinuance of water service by the city.

(2006 Code, sec. 82-27; Ordinance 09-08-809, secs. 2, 3, adopted 8/17/09)

ARTICLE 22.05 SEWER CONNECTIONS

Sec. 22.05.001 **Penalty**

Whoever violates any provision of this article for which no penalty is otherwise provided shall be subject to the penalty provision set forth in section 1.01.009. (1993 Code, sec. 51.99(a); 2006 Code, sec. 82-183(a))

Sec. 22.05.002 **Connection to sewer required**

All owners or occupants of buildings, or agents of said owners, situated in any section of the city, shall connect to the city sanitary sewer system if the system is available in a street, alley or other public way abutting the platted premises on which the building is located. It shall be the duty of such party or parties where such availability to the city's sewer system exists, or may hereafter exist, to construct or cause to be constructed suitable water closets on their property and to connect the water closets to the city sanitary sewer system, such connection to be made under the supervision of an inspector of the city and in accordance with the requirements of the plumbing and building codes and any other applicable ordinances of the city. It shall be the duty of all such parties to keep and maintain such water closets and connections in suitable working condition and free from any obstruction. (1984 Code, sec. 3-1-7; 1993 Code, sec. 51.15; 2006 Code, sec. 82-51; Ordinance 92, sec. 1, adopted 4/5/77)

Sec. 22.05.003 **Notice of sewer availability**

It shall be unlawful and an offense for any owner, occupant or agent of an owner to occupy and use a building equipped with a septic tank within 90 days after having been given notice by the city to make connection with the city sanitary sewer system as provided for in this article. (1984 Code, sec. 3-1-8; 1993 Code, sec. 51.16; 2006 Code, sec. 82-52; Ordinance 92, sec. 2, adopted 4/5/77)

ARTICLE 22.06 WATER AND SEWER EXTENSIONS; PRO RATA CHARGES

Sec. 22.06.001 **Authority**

The city may extend water and sanitary sewer mains in the streets and alleys or easements within the city limits in order to permit connections by those persons desiring water and sanitary sewer services. A charge, known as pro rata, shall be made against each lot or tract of land, and the owner thereof, whose water line shall be hereafter connected with any water mains in the city, shall be charged the rates set out in the fee schedule. (1984 Code, sec. 3-1-9; 1993 Code, sec. 51.46; 2006 Code, sec. 82-112; Ordinance adopting 2015 Code)

Sec. 22.06.002 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:

Abutting foot. Property contiguous and adjacent to a water and/or sewer line.

Approach main. Lines required to interconnect property being developed with the existing water and sewer system.

Consumer. The actual user of water from a city water connection.

Developed area. An area is “developed” at such time as the city council has approved the final plat of a subdivision, and building permits have been issued.

Frontage. Property abutting either side of a water and/or sewer line.

Off-site main. Means the same as an “approach main.”

On-site main. All water and sewer mains required within a subdivision.

Pro rata. A charge made against the consumer or property owner to pay for replacement or extension of water and sanitary sewer mains as provided for in this article.

Property owner. The record title holder of premises served with water from a connection by the city.

Service connection. A water or sewer connection extending from the main line to serve a consumer.

Temporary line. Any line constructed by a developer as an expedient to develop a particular area not required in the city’s ultimate development plan.

Waterworks department. The water and sewer department of the city.

(1984 Code, sec. 3-1-9A; 1993 Code, sec. 51.45; 2006 Code; sec. 82-111; Ordinance 63, sec. 1, adopted 3/25/75)

Sec. 22.06.003 Pro rata charges

(a) Authority to make extensions. The waterworks department may extend water and sanitary sewer mains in the streets, alleys or easements within the city limits in order to permit connections by persons desiring and seeking water service and sanitary sewer service.

(b) Work to be performed by city or authorized contractor. Except as otherwise specifically provided, all water and sanitary sewer main extensions provided for in this article shall be laid, constructed and installed by the city directly, or by contract made by the city, or in any other manner specified by the city council.

(c) Assessment of pro rata charge; rates.

- (1) (A) A charge, which shall be known as the pro rata, shall be made against each lot or tract of land, and the owner thereof, whose water or sewer line is connected with any water main or sewer main in the city under the terms of this section, and the charge shall be at the rates established in the fee schedule, which rates are a portion of the total cost of such water and sewer mains.

- (B) In the event the construction cost of the 12-inch line exceeds the pro rata charge provided under this section, the owner of abutting property shall pay one-half of the actual cost of installing the line. Such cost shall apply to abutting property owners on each side of the street, alley or easement where a water and sewer main is located.
- (2) The above front-foot rates provided for in subsection (c)(1) of this section and the adopted fee schedule shall apply to property fronting on a street in areas platted into the usual rectangular lots or tracts of land, with a depth not to exceed 150 feet. Where lots or tracts have greater depth than 150 feet from the street line, and are occupied or are to be occupied exclusively as dwelling places, then the additional depth shall not be assessed. If the property is later subdivided, requiring an extension of mains to serve the same, then the terms of this article shall govern. On lots or tracts of land which extend through from one street to another, with frontage on both streets, and where the distance between the street lines is 260 feet or more, then the pro rata charges shall be paid on both frontages when a connection is secured to the lot or tract. Where lots or tracts of land are irregular in size or shape, the pro rata charges shall be based upon equivalent rectangular lots or tracts using one front foot for each 150 square feet of area, or the pro rata charges provided herein on average frontage of such tracts, whichever is smaller.
- (3) Where lots or tracts are intended to be used for business, commercial or industrial purposes, or have a depth greater than 150 feet from the front street line, the pro rata provided for in this section shall be paid on the frontage on all streets which the property may abut, minus 150 feet frontage for each corner of the property abutting a street intersection. Should such property be resubdivided whereby water or sewer main extensions are required to serve such property, the terms of this article shall apply and additional pro rata charges shall be made based on such additional frontage.
- (4) In addition to the pro rata charge on water and sewer mains, the property owner must pay the tap charges as established by ordinance. Where a developer extends a water or sewer line through his subdivision, and/or has paid his pro rata cost of construction of such line, such developer is exempted from additional assessment under this section.

(1984 Code, sec. 3-1-9B; 1993 Code, sec. 51.47; 2006 Code, sec. 82-113; Ordinance 63, sec. 2, adopted 3/25/75; Ordinance adopting 2015 Code)

Sec. 22.06.004 Extension for individual owners

(a) Upon request of the owner, or his agent, of a given lot or tract of land, accompanied by the payment of the charges due under this article, the city shall extend or cause to have extended, lay or construct all necessary sanitary sewer and water mains, including valves and hydrants, a distance of 100 feet plus the distance across the frontage necessary to provide the service for which application has been made. The applicant to be served shall be required to pay the charges provided for in this article. The owners of all intervening property served by the given main extensions shall be required to pay the charges provided for in this article at such time as their property is connected to the mains thus laid. Where an applicant for service secures an extension and service under this particular option for main extension, he shall pay the pro rata charges on all property owned by him and which is served by the requested extension. In applying the 100-foot rule, the required extension of the main shall be figured in such a manner as to leave out of the calculations that portion of any main adjacent to property already having other than a temporary water service and for which the pro rata charges thereon have been paid or credited under the terms of this article.

(b) An exception to the above 100-foot rule shall be made where two or more individual applicants desire water and/or sewer service and the nearest applicant is more than 100 feet from existing lines, in which case the city will extend or cause to be extended their mains upon payment of the charge due under this article, provided there is one customer for every 100 feet of such extension, excluding street intersections and that portion of the extension adjacent to property already having other than temporary water and/or sewer service.

(1984 Code, sec. 3-1-9C; 1993 Code, sec. 51.48; 2006 Code, sec. 82-114; Ordinance 63, sec. 3, adopted 3/25/75)

Sec. 22.06.005 Optional method for individual owner

(a) At the option of the city, the following method for extending water and sewer mains may be used where the applicant's property is more than 100 feet from an existing water or sewer main. This method shall be available only for use by an individual owner, person or corporation to secure water and sewer service for the individual's residence or place of business. Where eligible for this option, the owner may advance and pay to the city the entire pro rata cost set forth in section 22.06.003 on all property served by the desired main extension, and the city, when such money has been actually deposited with the city, will construct or cause to have constructed the desired water or sewer main along the street, alley or easement. When any property for which such person has advanced the pro rata cost is connected to the main extension, then, in that event, the pro rata cost so advanced on that particular property shall be refunded by the city to the person making the original deposit.

(b) Where an extension is requested by an industry or a commercial concern using large quantities of water and such industry or concern cannot meet the requirements of one customer per 100 feet of extension, such extension may be made at the discretion of the city council, provided 40 percent of the estimated annual revenue from such customer will support interest and principal payments on a ten-year loan covering the cost of such extension, such loan bearing interest at a rate of six percent per annum.

(1984 Code, sec. 3-1-9D; 1993 Code, sec. 51.49; 2006 Code, sec. 82-115; Ordinance 63, sec. 4, adopted 3/25/75)

Sec. 22.06.006 Extension to property subdivided or platted for development and resale

(a) Where extensions of water and sewer mains are required to serve property which has been subdivided or platted for development and resale, and the final plat has been approved by the city council, the city shall construct or cause to have constructed such mains upon deposit of the total cost of such extensions, including the cost of approach mains fronting property not owned by the developer, but necessary to connect the area for which application is made with the city water and sewer system.

(b) The developer will bear the total cost of construction of off-site or approach mains required to interconnect property to be developed with existing mains, the sizes to be determined by the city, and with the only refunds to be the pro rata as collected by the waterworks department.

(c) Any refund to the developer shall not exceed the total of the pro rata charges if this means has been used to calculate the cost of water and sewer mains.

(d) In the event the construction cost of the 12-inch line exceeds the pro rata charge provided under this article, the owner of abutting property shall pay one-half of the actual cost of installing the line. Such cost shall apply to abutting property owners on each side of the street, alley or easement where a water and sewer main is located.

(e) There shall be a maximum of ten years as the period of eligibility wherein the original depositor may request a refund of pro rata payments under this article. In the event the abutting property is not developed during such ten-year period, no refund shall be made under this article. The period of eligibility shall begin as of the date of final inspection and acceptance of the extensions by the city.

(1984 Code, sec. 3-1-9E; 1993 Code, sec. 51.50; 2006 Code, sec. 82-116; Ordinance 63, sec. 5, adopted 3/25/75)

Sec. 22.06.007 On-site mains

The developer will bear the total cost of on-site mains, with sizes to be determined by the city, except that the city will refund the increment of cost on water and sewer mains over 12 inches in diameter proportionately as the frontage served is connected. The increment of cost borne by the city shall be determined on the basis of the difference between the price bid for 12-inch water and sewer mains and the larger size required. In the event the bid price for mains larger than 12 inches is not considered reasonable by the city, the city will not be obligated to proceed under the terms of this article. In the event the developer's bid price does not reflect a 12-inch installed

price, the city will pay all costs in excess of the cost of a 12-inch pipe delivered to the city plus \$4.50 per foot. (1984 Code, sec. 3-1-9F; 1993 Code, sec. 51.51; 2006 Code, sec. 82-117; Ordinance 63, sec. 6, adopted 3/25/75)

Sec. 22.06.008 Temporary lines

Where temporary lines are constructed as an expedient to develop a particular area, such as across easements within the subdivision of which no frontage can be connected, or where sewers are constructed which otherwise are not required in the ultimate plan of development for sanitary sewer systems, the developer will bear the total cost without refund. (1984 Code, sec. 3-1-9G; 1993 Code, sec. 51.52; 2006 Code, sec. 82-118; Ordinance 63, sec. 7, adopted 3/25/75)

Sec. 22.06.009 Alternative plan for developers

(a) At the option of the city, as an alternative plan, a developer may be permitted to pay for the total cost of installation of water and sewer extensions as provided for in this section in lieu of paying the pro rata charge provided for in this article. Upon approval by the city, a developer of an addition or plat shall design and prepare construction plans of water and sanitary sewer facilities, or either of them, to serve the subdivision, including any access or off-site facilities that may be required. These plans shall conform in all details to the city's standards as to the design, grade, location, size and quality of materials and construction.

(b) Plans and profiles submitted by the developer's engineer shall be inked on standard 22-inch by 36-inch sheets of tracing linen. Plans and profiles shall be shown at scales of not less than one inch to 100 feet horizontal, and one inch to ten feet vertical. Plans and profiles shall show clearly all surface improvements, all existing or proposed subsurface utility lines and obstructions, and street and alley grades as approved by the waterworks department or city engineer. The engineer submitting the plans and profiles must be a registered professional civil engineer in the state, and he must affix his seal and signature to the tracings of all plans and profiles.

(c) When the project is ready for construction, line and grade stakes will be set by the developer's engineer, but these stakes will not be set until after the developer's engineer has properly staked, on the ground with iron pins, all points of curves, all points of tangency, all block corners, and all lot corners within the subdivision. All construction and installation of water and sewer mains shall be observed by inspectors of the city and all construction contracts shall be let upon the city's approved specifications for materials and performance.

(d) (1) Upon approval of the plans by the city, the developer may enter into a contract with any individual or may himself construct the system as so planned; provided that the construction and installation of the water lines and sewer lines, or either of them, shall be observed by inspectors of the city, to see that the installation is made and tested in accordance with the plans and the city's approved specifications, which in every instance shall be a part of the installation contract.

(2) Testing required by the city's approved specifications shall be performed by a testing laboratory meeting the approval of the city.

(e) No installation of water and sewer mains shall be made at any other location except the dedicated street, alley or an easement running in favor of the city, which shall be filed of record by the owner of the addition. Any such installation, when made, shall become the property of the city, free and clear of all encumbrances, and any contract entered into between the developer and a contractor shall provide for a performance bond such as the city uses in its approved specifications and contract documents. In the event the developer makes the installation himself, then he shall execute a performance bond in favor of the city in the same form and condition and in the same manner as provided for in the approved contract documents used by the city in making of water and sanitary sewer installations.

(1984 Code, sec. 3-1-9H; 1993 Code, sec. 51.53; 2006 Code, sec. 82-119; Ordinance 63, sec. 8, adopted 3/25/75)

Sec. 22.06.010 Separate agreement for lift station or other special installation

In the event a lift station or other special installation is required in connection with water or sewer extensions under this article, the lift station or other special installation shall be installed under separate agreements between the city and the developer. (1984 Code, sec. 3-1-9I; 1993 Code, sec. 51.54; 2006 Code, sec. 82-120; Ordinance 63, sec. 9, adopted 3/25/75; Ordinance 89 adopted 2/1/77)

Sec. 22.06.011 Exceptions to front-foot rule in determining charge

The intent and purpose of this article is to provide an equitable charge for water and sanitary sewer connections as a proportionate distribution of the cost of water and sanitary sewer main extensions to serve property in the city on a front-foot basis. In case property or a tract of land is so situated or shaped that the front-foot rule creates an inequitable basis, as between it and other tracts of land in the city, then, in that event, the city engineer shall determine the proper charge in accord with the intent and purpose of this article. (1984 Code, sec. 3-1-9J; 1993 Code, sec. 51.55; 2006 Code, sec. 82-121; Ordinance 89, sec. 10, adopted 2/1/77)

Sec. 22.06.012 Exemptions from charges

All property platted into lots or tracts for which final approval has been given by the city council and having existing water or sanitary sewer connections on October 1, 1974, shall be exempt from the pro rata charges for the water and sewer mains. (1984 Code, sec. 3-1-9K; 1993 Code, sec. 51.56; 2006 Code, sec. 82-122; Ordinance 89, sec. 11, adopted 2/1/77)

Sec. 22.06.013 Charges to be credited to water and sewer fund; refunds to be made from fund

Any and all sums of money collected as a fee or connection charge at the rates set out in this article shall be credited to the water and sewer fund of the city. Refunds to a developer under this article shall be made from the water and sewer fund. (1984 Code, sec. 3-1-9L; 1993 Code, sec. 51.57; 2006 Code, sec. 82-123; Ordinance 63, sec. 12, adopted 3/25/75)

Sec. 22.06.014 City not required to make extensions or participate in cost of oversize lines

In no event may the city be required to make extensions under the provisions of this article or to participate in oversize lines if there are no funds available on hand for the purpose. (1984 Code, sec. 3-1-9M; 1993 Code, sec. 51.58; 2006 Code, sec. 82-124; Ordinance 63, sec. 13, adopted 3/25/75)

Sec. 22.06.015 Regulations not exclusive as to enforcing payment of costs

Nothing in this article shall be deemed in any way to be an exclusive method of enforcing the payment of the pro rata cost against the consumers and property owners, and this article shall not be deemed in any manner to be a waiver of the city's right to validly assess the property owners and/or consumers concerned or cost of the installation of standard size water and sewer mains and to fix and enforce liens against such property, all of which may be done as provided by ordinance in the manner prescribed by law. (1984 Code, sec. 3-1-9N; 1993 Code, sec. 51.59; 2006 Code, sec. 82-125; Ordinance 63, sec. 14, adopted 3/25/75)

Sec. 22.06.016 No vested rights

No person shall acquire any vested right under the terms and provisions of this article. (1984 Code, sec. 3-1-9O; 1993 Code, sec. 51.60; 2006 Code, sec. 82-126; Ordinance 63, sec. 15, adopted 3/25/75)

Sec. 22.06.017 Penalty

Whoever violates any provision of this article for which no penalty is otherwise provided shall be subject to the penalty provision set forth in section 1.01.009. (1993 Code, sec. 51.99(a); 2006 Code, sec. 82-183(a))

ARTICLE 22.07 WATER AND SEWER CAPITAL COST AND RECOVERY CHARGE**Sec. 22.07.001 Establishment of charges**

(a) In furtherance of the general police power of the city, in order to promote the health, safety and general welfare of the city and its citizens, there are established water and sanitary sewer capital cost and recovery charges for certain uses. Such charges shall be and constitute a charge for making available within the water and sanitary sewer system of the city adequate supply and capacity to serve such use. Such charge shall be in addition to any other requirements of the pro rata charges set forth in article 22.06 of this chapter, and of the subdivision regulations in chapter 28, as the same exist presently or may be hereafter amended.

(b) The capital costs recovery charges are hereby established so that the same shall be in accordance with the adopted fee schedule. For every subdivision, final plat or replat approved by the city council or for any building which a permit is issued on or after the effective date of the ordinance from which this article is derived, a total fee shall be due for all land uses included in the fee schedule.

(1993 Code, sec. 51.70; 2006 Code, sec. 82-151; Ordinance 238, secs. II, III, adopted 1/6/86; Ordinance adopting 2015 Code)

Sec. 22.07.002 Applicability

(a) The charges established in section 22.07.001 shall be applicable for every land use listed in section 22.07.001(b)(1) for which a building permit is issued on or after the effective date of the ordinance from which this article is derived.

(b) The charges established in section 22.07.001 shall be applicable to every land use listed in section 22.07.001(b)(2) through (8) for which a final plat or replat is approved by the city council on or after the effective date of the ordinance from which this article is derived.

(c) The charges shall not be applicable to any land use for which a final plat or replat was approved by the city council before the effective date of the ordinance from which this article is derived, and which is revised without increasing the number of single-family or duplex lots, dwelling units, or beds in a hospital or nursing home, or square feet of building floor space in business uses listed in section 22.07.001(b)(1).

(1993 Code, sec. 51.71; 2006 Code, sec. 82-152; Ordinance 238, sec. IV, adopted 1/6/86)

Sec. 22.07.003 Payment

(a) The total fee due, as determined under the provisions of this article, shall be paid in cash prior to the issuance of any building permit by the city manager, for land uses listed in section 22.07.001(b)(1).

(b) The total fee due for land uses listed in section 22.07.001(b)(2) through (8) shall be paid in cash prior to approval by the city manager of the construction plans for streets, alleys, on-site utility installations and the like within the subdivision, pursuant to the subdivision regulations in chapter 28.

(1993 Code, sec. 51.72; 2006 Code, sec. 82-153; Ordinance 238, sec. V, adopted 1/6/86; Ordinance adopting 2015 Code)

Sec. 22.07.004 Disposition of funds

All funds collected under the provisions of this article shall be credited and applied to the water and sewer operating fund initially, and shall subsequently, on a monthly basis as provided by law, be transferred to the interest and sinking fund as a part of the required monthly transfer, or transferred into a water and sewer capital improvement fund for the purpose of making permanent improvements to the system. (1993 Code, sec. 51.73; 2006 Code, sec. 82-154; Ordinance 238, sec. VI, adopted 1/6/86)

Sec. 22.07.005 City not obligated to provide utility services

The payment and collection of the fee established and levied by this article shall in no way obligate the city to provide any specific utility service and shall in no way guarantee any specific level or quality of service. (1993 Code, sec. 51.74; 2006 Code, sec. 82-155; Ordinance 238, sec. VII, adopted 1/6/86)

Sec. 22.07.006 Penalty

It shall be unlawful for any person, as that term is defined in the Code of Ordinances of the city, to do or perform any act prohibited in this article, and it shall be unlawful for any such person to fail to do or perform any act required by this article. Upon conviction of violation hereof, punishment shall be by a fine not to exceed \$200.00. (1993 Code, sec. 51.99(b); 2006 Code, sec. 82-183(b); Ordinance 238, sec. VIII, adopted 1/6/86)

ARTICLE 22.08 WATER WELLS***Sec. 22.08.001 Penalty**

Whoever violates any provision of this article for which no penalty is otherwise provided shall be subject to the penalty provision set forth in section 1.01.009. (1993 Code, sec. 51.99(a); 2006 Code, sec. 82-183(a))

Sec. 22.08.002 Permit for drilling new well

(a) Required; inspection of location. It shall be unlawful for any person to drill or attempt to drill a new water well within the corporate limits of the city without first:

- (1) Obtaining a building permit from the city manager or his designee;
- (2) Having the location inspected by an official of the city's public works department.

(b) Fee. The fee for a permit to drill a new water well shall be as provided for in the fee schedule, as printed in appendix A to this code.

(2006 Code, sec. 82-25(a); Ordinance 05-10-678, sec. 2, adopted 10/3/05)

Sec. 22.08.003 Location and drilling requirements

(a) The location for drilling of all new water wells must be approved by the director of public works of the city.

(b) New water wells must be drilled by a licensed water driller pursuant to rules promulgated by the state commission on environmental quality and/or other applicable regulatory agencies.

(c) A minimum setback of 50 feet shall be required from all property lines.

(d) A minimum setback of 20 feet shall be required from all habitable buildings.

(2006 Code, sec. 82-25(b); Ordinance 05-10-678, sec. 2, adopted 10/3/05)

Sec. 22.08.004 Connection with public water system prohibited

There shall be no direct or indirect connection of the water well and the public water system. (2006 Code, sec. 82-25(c); Ordinance 05-10-678, sec. 2, adopted 10/3/05)

* **State law reference**—Water wells, V.T.C.A., Water Code, sec. 28.011 et seq.

Sec. 22.08.005 Capping of inactive wells

When any well, because of non-use, abandonment, or any other reason, becomes inactive, it shall be filled and permanently capped. (2006 Code, sec. 82-25(d); Ordinance 05-10-678, sec. 2, adopted 10/3/05)

ARTICLE 22.09 PRIVATE SEWAGE DISPOSAL SYSTEMS***Sec. 22.09.001 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:

Application. A written request on specified documents and providing specified required information as to the design and ownership of the individual sewage disposal system.

Individual sewage disposal system. A sewage disposal system, other than a public or community system, which receives either human excreta or liquid waste or both, from one premises. This shall apply to all household or designated commercial liquid waste. Included within the scope of this definition are septic tank-soil absorption systems, privies, and chemical-type toilets, and such other types as may be prescribed in regulations by the health officer.

Permit. A written permit issued by the health officer, permitting the construction of an individual sewage disposal system under this article.

Person. Any institution, public or private corporation, individual, partnership, or other entity.

(1984 Code, sec. 9-9-1; 1993 Code, sec. 51.30; 2006 Code, sec. 82-81; Ordinance 42, sec. I, adopted 2/12/74)

Sec. 22.09.002 Penalty

Whoever violates any provision of this article for which no penalty is otherwise provided shall be subject to the penalty provision set forth in section 1.01.009. (1993 Code, sec. 51.99(a); 2006 Code, sec. 82-183(a))

Sec. 22.09.003 Intent; applicability

(a) This article shall apply to all individual sewage disposal systems within the legal boundaries of the city, and to all properties, homes, or other establishments serviced by the city water system.

(b) This article and the penalty set forth in section 22.09.002 shall apply in totality to all individual sewage disposal systems completed or renovated after the effective date of the ordinance from which this article is derived.

(c) All existing and proposed systems shall meet the minimum health and nuisance criteria established in this article and as interpreted by the health officer.

(d) It is not the intent of this article to require the enlargement or replacement of all existing systems. However, failing or inadequate systems shall be improved in a manner acceptable to the health officer. Such improvements shall require the issuance of a valid permit.

(1984 Code, sec. 9-9-2; 1993 Code, sec. 51.31; 2006 Code, sec. 82-82; Ordinance 42, sec. II, adopted 2/12/74)

* **State law reference**—On-site sewage disposal systems, V.T.C.A., Health and Safety Code, ch. 366.

Sec. 22.09.004 Authority to establish additional regulations

(a) The health officer of the city, in order to protect the health and safety of the resident population and of the general public, is authorized and directed, after public hearing, to promulgate and amend from time to time regulations establishing minimum standards governing the design, construction, installation, and operation of individual sewage disposal systems. Such regulations shall establish such minimum standards as, in the judgment of the health officer, will ensure that the wastes discharged to various individual sewage disposal systems:

- (1) Do not contaminate any drinking water supply, wells or transmission facilities.
- (2) Are not accessible to insects, rodents or other possible carriers of disease which may come into contact with food or drinking water.
- (3) Do not pollute or contaminate in any way the waters of any stream, pond or lake.
- (4) Are not a health hazard by being accessible to the public.
- (5) Do not give rise to a nuisance due to odor, unsightly appearance or other unsanitary conditions.
- (6) Will not violate any local, state or federal laws or regulations governing water pollution or sewage disposal.

(b) The health officer is authorized to promulgate such additional regulations as are necessary in his judgment to carry out the provisions of this article. Specifically, section 22.09.007 shall be amended by such additional regulations so as to guarantee the construction of high-quality individual sewage disposal systems.

(1984 Code, sec. 9-9-3; 1993 Code, sec. 51.32; 2006 Code, sec. 82-83; Ordinance 42, sec. III, adopted 2/12/74)

Sec. 22.09.005 Permit

(a) Required. It shall be unlawful for any person to construct, alter, or extend individual sewage disposal systems within the city unless he holds a valid permit issued by the health officer in the name of such person for the specific construction, alteration, or extension proposed. The permit to install an individual sewage disposal system shall be in addition to any required building permits, and shall be applied for at least 30 days before the anticipated start of construction.

(b) Issuance. All applications for permits shall be made to the health officer, who shall issue a permit upon compliance by the applicant with the provisions of this article and any regulations adopted hereunder.

(c) Denial when public system is available. The health officer shall refuse to grant a permit for the construction of an individual sewage disposal system where public or community sewage systems are reasonably available.

(d) Application. Applications for permits shall be in writing, shall be signed by the applicant, and shall include the following:

- (1) Name and address of the applicant.
- (2) Lot and block number of property on which construction, alteration or extension is proposed.
- (3) Complete plan of the proposed disposal facility, with substantiating data, if necessary, attesting to its compliance with the minimum standards of the health officer.
- (4) Such further information as may be required by the health officer to substantiate that the proposed construction, alteration, or extension complies with regulations promulgated by the health officer.

(e) Plans and additional information. A complete plan for the purpose of obtaining a permit to be issued by the health officer shall include:

- (1) The number, location and size of all sewage disposal facilities to be constructed, altered, or extended.
- (2) The location of water supplies, water supply piping, existing sewage disposal facilities, buildings or dwellings and adjacent lot lines.
- (3) Plans of the proposed sewage disposal facilities to be constructed, altered, or extended.
- (4) The results of a percolation test performed in accordance with the regulations established by the health officer.

(f) Hearing on denial. Any person whose application for a permit under this article has been denied may request and shall be granted a hearing on the matter before the health officer within 30 days after receipt of the request.

(g) Fee. Application for an individual sewage disposal system permit shall include all required forms, plans, and percolation test results. The application fee per system shall be in accordance with the adopted fee schedule and this amount shall accompany the application.

(1984 Code, sec. 9-9-4; 1993 Code, sec. 51.33; 2006 Code, sec. 82-84; Ordinance 42, sec. IV, adopted 2/12/74; Ordinance adopting 2015 Code)

Sec. 22.09.006 Inspections

(a) The health officer is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this article and the regulations promulgated hereunder.

(b) It shall be the duty of the owner or occupant of a property to give the health officer free access to the property at reasonable times for the purpose of making such inspections as are necessary to determine compliance with the requirements of this article and regulations promulgated hereunder.

(1984 Code, sec. 9-9-5; 1993 Code, sec. 51.34; 2006 Code, sec. 82-85; Ordinance 42, sec. V, adopted 2/12/74)

Sec. 22.09.007 Minimum standards

(a) General standards. Tanks shall be constructed of reinforced concrete or of metal properly treated with a noncorrosive agent both inside and outside. Non-reinforced concrete shall not be accepted. Other impervious materials may be used with the approval of the health officer. The minimum distance from any portion of the system to wells, water lines, foundations, streams or other objects shall be as established by the health officer.

(b) Minimum tank size; influent and effluent pipes.

- (1) Residential systems shall have a minimum working capacity of 600 gallons for a two-bedroom residence and 200 gallons for each additional bedroom. Where the tank is to serve the following fixtures, the minimum capacity shall be increased by the following quantity per bedroom:

	<u>Gallons</u>
Washing machine	50
Dishwasher	25

Gallons

Garbage grinder or disposal	25
Total sinks or water closets in excess of one per bedroom	25, each

- (2) Minimum size of commercial, apartment, or industrial systems shall be four times the maximum daily water usage, or as otherwise determined by the health officer.
- (3) If the plant consists of more than one compartment, no compartment shall have a working capacity of less than 250 gallons. The septic tank shall be watertight, and shall be located not less than five feet from any foundation.
- (4) Influent (inlet) and effluent (outlet) pipes shall be constructed so that the sewage influent and effluent is introduced and withdrawn from the tank at a depth of at least six inches below the water level. Baffle walls may be used in lieu of influent and effluent tees or quarter bends and the baffle walls must extend from six inches below the top of the tank to a depth of at least six inches below the water level. The effluent pipe shall be at least one pipe diameter less than the influent pipe. Influent and effluent pipes must be built so that the water line is at least eight inches from the ceiling of the septic tanks. Suitable manholes or removal covers shall be provided for each compartment to allow for cleaning.

(c) Lateral system.

- (1) From the tank effluent to the distribution lateral system there shall be not less than eight feet of solid pipe, minimum four-inch diameter.
- (2) The lateral system shall consist of not less than 250 square feet of filter trench per bedroom. It shall be constructed with open joint pipe of a type approved by the health officer. Where the tank is to serve the following fixtures, the total minimum length shall be increased by the following quantity per bedroom:

Square Feet

Washing machine	40
Dishwasher	30
Garbage grinder or disposal	30
Total sinks or water closets in excess of one per bedroom	20, each

- (3) Where a percolation test series has been performed by a registered professional engineer, a certified testing laboratory, or a registered sanitarian, the required area of lateral system may be adjusted downward from the minimum standard established in subsection (c)(2) of this section. The adjustment schedule shall be on file with the health officer.
- (4) This lateral system shall be laid in a filter trench filled with gravel or washed rock. The filter trench shall be at least 24 inches wide, but no more than 36 inches wide. The trench depth shall be no less than 27 inches deep, nor more than 36 inches deep. There shall be at least eight inches of gravel or washed rock underneath the drainpipe and the trench is to be filled at least three inches over the top of the pipe with this same material. The top of each open joint of pipe shall be covered with a strip of tarpaper or building paper. On top of the gravel or washed rock shall be a two-inch layer of hay or straw or other material suitable as a protective covering for the porous filler around the pipe and not less than ten inches of soil. The lateral lines shall be in no case less than 12 feet apart and laid at zero grade, and not less than ten feet from any property line. Systems to be laid on lots with other than zero grade shall be so noted in the permit application.

- (5) No portion of the lateral system shall be laid under a driveway, street, or similar access road without the express written approval of the health officer.
 - (6) Before any tank and system is covered up, the person installing the system shall notify the health officer, who shall then inspect the system. Inspection shall be made when tanks are in place, all connections completed and top gravel [is placed] and a two-inch layer of hay or straw or other suitable material is placed over top gravel.
 - (7) All individual disposal systems shall be graded over such that water will not pool at any portion thereon. Drainage shall be away from the structure being serviced.
 - (8) The size of lateral systems for structures other than single-family dwellings shall be determined by the health officer.
- (d) Maintenance.
- (1) The owner of the individual sewage disposal system shall provide all required service to keep that system operable and in compliance with the provisions of this article at all times.
 - (2) Required service shall include, but shall not be limited to, periodic tank cleaning, replacement of defective tanks or laterals and extension of inadequate lateral systems.
- (e) Amendment and enforcement of regulations. The health officer shall amend and enforce these provisions as required in order to protect the health of the community. The health officer shall also make available such application forms as are required to secure an individual sewage disposal system permit.

(1984 Code, sec. 9-9-6; 1993 Code, sec. 51.35; 2006 Code, sec. 82-86; Ordinance 42, sec. VII, adopted 2/12/74)

ARTICLE 22.10 WASTE DISCHARGES AND PRETREATMENT*

Division 1. Generally

Sec. 22.10.001 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:

Act. The Federal Water Pollution Control Act, Public Law 92-500, known as the Clean Water Act (CWA), as amended, 33 USC 1251 et seq.

Administrator. The EPA Region VI Regional Administrator.

Approval authority. The director in a National Pollutant Discharge Elimination System (NPDES) state with an approved state pretreatment program and the appropriate regional administrator in a non-NPDES state or NPDES state without an approved state pretreatment program.

BOD (biochemical oxygen demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at 20 degrees Celsius, expressed in mg/l. The laboratory determination shall be made in accordance with the procedures set forth in 40 CFR 136.

* **State law references**—Adoption of rules to control and regulate disposal system waste, V.T.C.A., Water Code, sec. 26.176; water pollution control duties, V.T.C.A., Water Code, sec. 26.177.

Building drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys to the building sewer, which begins three feet outside the inner face of the building wall.

Building sewer. The extension from the building drain to the sewer lateral at the property line or other lawful place of disposal (also called house lateral or house connection).

Bypass. The intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

Categorical standards. The National Categorical Pretreatment Standards found in chapter 40 of the Code of Federal Regulations (CFR), parts 405–471, and amendments thereof, or pretreatment standards developed under 33 USC 1317 of the Act.

COD (chemical oxygen demand). The measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with BOD.

Control authority.

- (1) The owner/operator of the POTW;
- (2) The person designated by the city to be responsible for the industrial pretreatment program or its duly authorized representative.

Control manhole. A manhole giving access to a building sewer [at a] point before the building sewer discharges into the public sewer.

Daily discharge. The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents a calendar day for purposes of sampling.

Daily maximum. The highest allowable “daily discharge” during a calendar month.

Director. The chief administrative officer of a state or interstate water pollution control agency with an NPDES permit program approved pursuant to section 402(b) of the Act and an approved state pretreatment program.

Disposal. The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or semi-solid waste (i.e., grease trap waste, grit trap wastes, and/or septage) into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including, but not limited to, groundwaters.

Domestic sewage. The water-borne wastes normally discharging into the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free of stormwater and industrial wastes.

Environmental officer. The city engineer or his duly authorized representative.

EPA (Environmental Protection Agency). The U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized officials of said agency.

Flow-proportioned composite sample. A sample collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.

Garbage. Animal and vegetable wastes and residue from preparation, cooking, and dispensing of food, and from handling, processing, storage, and sale of food products and produce.

Grab sample. An individual sample collected over a period of time not exceeding 15 minutes.

Grease trap. A watertight receptacle designed and constructed to intercept and prevent the passage of greasy, fatty liquid, semi-liquid, and/or solid wastes into the sanitary sewer system to which the receptacle is directly or indirectly connected.

Grease trap waste. Any greasy, fatty liquid, semi-liquid, and/or solid wastes removed by a grease trap.

Grit/sand trap. A watertight receptacle designed and constructed to intercept and prevent the passage of sand, grit and other heavy solids into the sanitary sewer system to which the receptacle is directly or indirectly connected.

Grit trap waste. Any sand, grit and/or other heavy solids removed from a grit trap.

Hazardous waste. Any liquid, semi-liquid or solid waste (or combination of wastes) which, because of its quantity, concentration, physical, chemical or infectious characteristics, may:

- (1) Have any of the following characteristics: toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, explosive, or otherwise capable of causing substantial personal injury or illness;
- (2) Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Disposal Act or defined under 40 CFR 261.3.

Holding tank waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

Indirect discharge or discharge. The introduction of pollutants into a POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the Act.

Industrial user or user. A source of indirect discharge.

Industrial user wastewater discharge permit. A permit required of an industrial user to discharge waste into any sewer system under the jurisdiction of the city.

Industrial user wastewater surcharge. The additional charge made on those persons or industries who discharge industrial wastes into the sewer system which are amenable to treatment by the POTW treatment processes, but which exceed "normal" strength sewage.

Industrial waste. The water-borne solids, liquids, or gaseous wastes resulting from and discharged, permitted to flow or escaping from any industrial, manufacturing or food processing operation or process, or from the development of any natural resources, or any mixture of these with water or domestic sewage as distinct from normal domestic sewage.

Interference. A discharge which, either alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Is the cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): section 405 of the Clean Water Act,

the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

Liquid waste. Water-borne solids, liquids, and gaseous substances derived from a grease trap, grit trap, chemical/portable toilet and/or septic tank and described as grease trap waste, grit trap waste or septage.

Milligrams per liter (mg/l). A weight to volume ratio; the milligrams per liter value multiplied by the factor 8.34 is equivalent to pounds per million gallons of water.

Monthly average. The highest allowable average of “daily discharge(s)” over a calendar month, calculated as the sum of all “daily discharge(s)” measured during a calendar month divided by the number of “daily discharge(s)” measured during that month.

National categorical pretreatment standard. A standard specifying the quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new industrial users in specific industrial subcategories established as separate regulations under the appropriate subpart of 40 CFR chapter I, subchapter N. These standards, unless specifically noted otherwise, shall be in addition to the general prohibitions established in 40 CFR 403.5.

National pretreatment standard, pretreatment standard or standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

New source.

- (1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (A) The building, structure, facility or installation is constructed at a site at which no other source is located;
 - (B) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (C) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same type of activity as the existing source, will be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections (1)(B) and (C) of this definition but otherwise alters, replaces, or adds to the existing process or production equipment. Construction of a new source as defined has commenced if the owner or operator has:
 - (A) Begun, or caused to begin as part of a continuous on-site construction program:
 - (i) Any placement, assembly, or installation of facilities or equipment; or

- (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment.
- (B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this definition.

Normal domestic sewage. The “normal” sewage for the city, for which the average concentration of total suspended solids is not more than 250 mg/l and BOD is no more than 250 mg/l. Industrial wastes and stormwater are excluded from this term.

Overload. The imposition of organic or hydraulic loading on a treatment facility in excess of its engineered or design capacity.

Owner. Any person who owns a facility or any portion of a facility.

Pass-through. A discharge which exits the POTW into waters of the United States in quantities or concentration which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation).

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns.

pH. The logarithm (base 10) of the reciprocal of the hydrogen ion concentration.

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Polluted water. Any water, liquid or gaseous wastes containing any of the following:

- (1) Soluble or insoluble substances of organic or inorganic nature;
- (2) Settleable solids that may form sludge deposits;
- (3) Grease and oils;
- (4) Floating solids that may cause unsightly appearance or color;
- (5) Substances that would impart any taste or odor to the receiving stream; or
- (6) Toxic or poisonous substances.

POTW (publicly owned treatment works). A treatment works as defined by section 212 of the Act (33 USC 1292). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes lift stations, sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. For the purposes of this article, POTW shall refer to the North Texas Municipal Water District.

ppm (parts per million). A weight-to-weight ratio; the parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

Pretreatment or treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or by other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment requirement. Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Priority pollutant. A pollutant found in table II or table III of 40 CFR 122, Appendix D.

Properly shredded garbage. The wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles shall be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Responsible corporate officer.

- (1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
- (2) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Sanitary sewer. A public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted waters are not intentionally passed.

Septage. Wastes removed from a portable toilet, chemical toilet or septic tank.

Severe property damage. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. The term “severe property damage” does not mean economic loss caused by delays in production.

Sewage service charge. The charge made on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal sewage.

Sewage works/system. All facilities for collection, pumping, treating and disposing of sewage and industrial wastes, and would include sewage, as well as the sewage treatment facilities.

Sewer. A pipe or conduit for carrying sanitary sewage.

SIC (Standard Industrial Classification). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, or the latest edition.

Significant industrial user (SIU).

- (1) Except as provided in subsection (2) of this definition, the term “significant industrial user” shall mean:
 - (A) All industrial users subject to categorical standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

- (B) Any other industrial user that discharges 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, no contact cooling and boiler blow-down wastewater); contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
- (2) Upon finding that an industrial user meeting the criteria in subsection (1)(B) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the control authority (as defined in 40 CFR 403.12(a)) may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Slug discharge. Any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, and/or a discharge which violates any specific prohibitions listed in 40 CFR 403.5(b), and/or could significantly disrupt a POTW's system, and/or threaten human health and safety, and/or could potentially result in violations of the POTW's NPDES permit or sludge requirements.

Spill. The accidental or intentional loss or unauthorized discharge of any waste or raw material.

Storm sewer or storm drain. A sewer which carries storm and surface waters and drainage but excludes sewage and polluted industrial wastes.

Surcharge. The charge in addition to the sewage service charge which is made on those persons whose wastes are greater in strength than the concentration values established as representative of normal domestic sewage.

Suspended solids. Solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in 40 CFR 136.

Time composite sample. A sample composed of discrete sample aliquots collected in a single reservoir at constant time intervals irrespective of flow.

To discharge. To deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit or suffer any of these acts or omissions.

Toxic pollutant or toxic substance. Any substance, whether gaseous, liquid or solid, which, when discharged to the sewer system in sufficient concentrations, as determined by the environmental officer, may be hazardous to sewer maintenance and personnel, or tends to interfere with any wastewater treatment process, or to constitute a hazard to human beings or animals, or to inhibit aquatic life, or to create a hazard to recreation in the receiving waters of the state from a wastewater treatment plant; or any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under the provision of the Clean Water Act 307(a) or other Acts.

Trap. A device designed to skim, settle, or otherwise remove oil, grease, sand, flammable wastes or other harmful substances.

Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

User. Any person who contributes, causes or permits the contribution of wastewater into the city's sewer system.

Waste. Rejected, unutilized, or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with stormwater which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Watercourse. A channel in which a flow of water occurs, either continuously or intermittently.

(1993 Code, sec. 52.001; 2006 Code, sec. 82-211; Ordinance 336, sec. 1, adopted 6/1/92)

Sec. 22.10.002 Compliance with other authorities

(a) **Compliance with federal authority.** Industrial users within the jurisdiction of this article shall comply with all federal general pretreatment regulations and with those federal categorical pretreatment standards applicable to each as specified in 40 CFR subchapter N, parts 401–471.

(b) **Compliance with state authority.** Industrial users within the jurisdiction of this article shall comply with applicable sections of V.T.C.A., Water Code ch. 26.

(1993 Code, sec. 52.002; 2006 Code, sec. 82-212; Ordinance 336, sec. 6, adopted 6/1/92)

Sec. 22.10.003 Environmental appeals committee

(a) **Established.** An environmental appeals committee is hereby established and authorized to hear and decide appeals from any order issued by the environmental officer pursuant to this article. The environmental appeals committee shall be composed of the city manager, or assistant city manager, the public works director and the city attorney or their designated representative.

(b) **Powers and duties.** The environmental appeals committee may call and hold hearings, administer oaths, receive evidence at the hearing, issue subpoenas to compel the attendance of witnesses and the production of papers and documents related to the hearing, and make findings of fact and decisions with respect to administering its powers herein.

(c) **Decisions and orders.** Upon the hearing, the environmental appeals committee shall determine if there is a preponderance of evidence to support the environmental officer's determination and order. The decision of the environmental appeals committee shall be in writing and contain findings of fact. If the environmental appeals committee determines that there is a preponderance of evidence to support the determination and order of the environmental officer, the environmental appeals committee shall, in addition to its decision, issue an order:

- (1) Requiring discontinuance of such violation or condition;
- (2) Requiring compliance with any requirement to correct or prevent any condition or violation; or
- (3) Suspending or revoking any permit issued under this article.

(d) **Contents of order; delivery.** In any decision issued by the environmental appeals committee, the order shall specify the time in which the compliance with the order must be taken. A copy of the order shall be delivered to the appellant or person to whom the order is directed in person or sent to him by registered or certified mail.

(1993 Code, sec. 52.003; 2006 Code, sec. 82-213; Ordinance 336, sec. 19, adopted 6/1/92)

Sec. 22.10.004 Pretreatment required

(a) Industrial users shall provide necessary wastewater treatment as required to comply with this article, federal categorical pretreatment standards, and any state or federal pretreatment regulation. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. The city can require the development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements.

(b) Before beginning construction of pretreatment facilities, the user shall submit detailed plans and operating procedures for the facility to the environmental officer for review and approval. The review and approval of such plans and procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article.

(c) All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge.

(d) All records relating to compliance with the pretreatment standards shall be made available to officials of the city, state, or Environmental Protection Agency upon request.

(e) The determination of the character and concentration of industrial wastewater shall be made by the environmental officer at such times and on such schedules as he may establish.

(1993 Code, sec. 52.004; 2006 Code, sec. 82-214; Ordinance 336, sec. 25, adopted 6/1/92)

Sec. 22.10.005 Notice of significant noncompliance

(a) The city shall publish annually a list of industrial users in significant noncompliance of applicable pretreatment standards or other pretreatment requirements during the previous 12 months. The notification shall also summarize any enforcement actions taken against the users during the same period. Said list shall be published in the largest daily newspaper published in the municipality in which the control authority is located.

(b) For purposes of this section, an industrial user is in significant noncompliance if its violation meets one or more of the criteria defined under 40 CFR 403.8(f)(2)(vii).

(1993 Code, sec. 52.005; 2006 Code, sec. 82-215; Ordinance 336, sec. 26, adopted 6/1/92)

Sec. 22.10.006 Bypass

(a) Bypass not violating applicable pretreatment standards or requirements. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (b) and (c) of this section.

(b) Notice.

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the control authority, if possible, at least ten days before the date of the bypass.

(2) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the control authority within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps

taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(c) Prohibition of bypass.

- (1) Bypass is prohibited, and the control authority may take enforcement action against an industrial user for a bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (C) The industrial user submitted notices as required under subsection (b) of this section.
- (2) The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three conditions in subsection (c)(1) of this section.

(1993 Code, sec. 52.006; 2006 Code, sec. 82-216; Ordinance 336, sec. 28, adopted 6/1/92)

Sec. 22.10.007 Upsets

(a) Effect of upset. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (b) of this section are met.

(b) Conditions necessary for demonstration of upset. An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operation logs or other relevant evidence, that:

- (1) An upset occurred and the industrial user can identify the cause of the upset;
- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
- (3) The industrial user has submitted the following information to the POTW and control authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
 - (A) A description of the indirect discharge and the cause of noncompliance;
 - (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - (C) Steps being taken and/or plans to reduce, eliminate and prevent recurrence of the noncompliance.

(c) Burden of proof. In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(d) Reviewability of agency consideration of claims of upset. In the usual exercise of prosecutorial discretion, agency enforcement personnel should review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final agency action subject to judicial review. Industrial users will have the opportunity of a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) User responsibility in case of upset. The industrial user shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(1993 Code, sec. 52.007; 2006 Code, sec. 82-217; Ordinance 336, sec. 31, adopted 6/1/92)

Sec. 22.10.008 Miscellaneous offenses relating to sewer system

No person, other than a regular employee or officer of the city charged with such duties, shall do or aid in doing any of the following acts:

- (1) Opening, closing, lifting or removing the cover of any sanitary sewer manhole or cleanout plug of the city sewer system;
- (2) Interfering with, destroying, impairing, injuring or defacing any property which is a part of or essential to the proper functioning of the city sewer system;
- (3) Covering or concealing from view any sanitary sewer manhole;
- (4) Tapping and/or otherwise connecting into an existing sanitary sewer which is a part of the city sewer system.

(1993 Code, sec. 52.008; 2006 Code, sec. 82-218; Ordinance 336, sec. 34, adopted 6/1/92)

Secs. 22.10.009–22.10.030 Reserved

Division 2. Prohibited Discharges

Sec. 22.10.031 Prohibited discharges

(a) No person may introduce into a POTW any pollutant which may pass through or interfere. Also prohibited are any substances that have an adverse effect on the environment, or may endanger life, health or property, or constitute a public nuisance.

(b) Substances specifically prohibited from being discharged into the sewage system are as follows:

- (1) Any liquids, solids or gases, including but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides or any other substances which are a fire or other hazard to the system, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fires or explosions or be injurious in any other way to the facilities or operation of the sewage system.
- (2) Any substance which creates a fire or explosion hazard in the sewage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21.

- (3) Any wastewater having a pH less than 5.0, greater than 10.5, or any wastewater having any other corrosive property capable of causing damage or hazard to the sewage system or any person.
- (4) Any wastewater containing pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and/or safety problems.
- (5) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) or exhibiting heat in amounts which will inhibit biological activity in the POTW causing an interference or, in any case, exhibiting heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit).
- (6) Any pollutant, including oxygen-demanding pollutants (COD, and the like) and total dissolved solids, released in a discharge at a flow rate and/or pollutant concentration which will cause pass-through or interference at the POTW or which will cause the POTW to be in noncompliance with any federal or state sludge use or disposal criteria, guidelines or regulations.
- (7) Any free or emulsified fats, waxes, greases or oils containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius); or any combination of free or emulsified fats, waxes, greases or oils, if, in the opinion of the control authority, it appears probable that such wastes:
 - (A) Can deposit grease or oil in the sewer system in such a manner as to clog the sewers;
 - (B) Can overload skimming and grease-handling equipment;
 - (C) Are not amenable to bacterial action and will therefore pass to the receiving water without being affected by normal sewage treatment processes;
 - (D) Can have deleterious effects on the treatment process due to excessive quantities.
- (8) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.
- (9) Solid or liquid substances which may cause obstruction to the flow in sewers or other interference with the proper operation of the wastewater treatment facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues, bulk solids or waste paper.
- (10) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other substances are sufficient to prevent entry into the sewer system for maintenance and repair.
- (11) Wastewater containing COD in concentrations which are not amenable to treatment, or any other substance which is determined by the environmental officer and/or POTW to be not amenable to treatment.
- (12) Any trucked or hauled pollutants, except at discharge points designated by the city.
- (13) Pollutant which causes:
 - (A) Excessive discoloration;
 - (B) High hydrogen sulfide content;
 - (C) Unusual taste- or odor-producing substances.

(c) In cases where, and in the opinion of the environmental officer and/or POTW, the character of the sewage from any manufacturer or industrial plant building or other premises is such that it will damage the system, or cannot be treated satisfactorily in the system, the environmental officer shall have the right to require such user to dispose of such waste otherwise and prevent it from entering the sewage system.

(d) Unusual flow and concentration of any of the above shall be pretreated to a concentration acceptable to the city, if such wastes can:

- (1) Cause damage to sewer system;
- (2) Impair processes;
- (3) Incur treatment cost exceeding those of normal sewage;
- (4) Render the water unfit for stream disposal or industrial use; or
- (5) Create a public nuisance.

(1993 Code, sec. 52.020; 2006 Code, sec. 82-241; Ordinance 336, sec. 2, adopted 6/1/92)

Sec. 22.10.032 Hazardous metals and chemical or toxic substances

(a) It shall be unlawful to discharge into the sewer system any metals, chemicals or toxic substances in excess of the following concentration limits:

- (1) The following heavy metals and toxic materials in the form of compounds or elements in solution or suspension in concentrations exceeding these limits:

<u>Parameter</u>	<u>Monthly Average Limit in mg/l</u>
Arsenic (total)	1.00
Cadmium (total)	0.11
Chromium (total)	2.77
Copper (total)	2.07
Cyanide (total)	0.65
Lead (total)	0.69
Mercury (total)	0.011
Nickel (total)	2.38
Zinc (total)	2.61

- (2) All other priority pollutants found in the POTW influent at a concentration at or above 0.1 mg/l and all numerical aquatic life criteria as defined by the state commission on environmental quality, including, but not limited to the following, shall be excluded from the wastewater system unless a permit specifying the conditions of pretreatment, concentration, volumes, and the like, is obtained from the city:

Aldrin
Aluminum
Carbaryl
Chlordane
Chlorpyrifos
DDT
Demeton
Dieldron
Endosulfan

Guthion
 Heptachlor
 Hexachlorocyclohexane
 Malathion
 Methoxychlor
 Mirex
 PCB (total)
 Parathion
 Phenanthrene
 Pentachlorophenol
 Selenium
 Silver (free ion)
 Toxaphene
 Tributyltin
 2-4-5 Trichlorophenol

- (3) Any radioactive wastes or isotopes without prior written permission from the environmental officer.

(b) Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate requirement. The control authority may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

(c) Upon the promulgation of federal categorical pretreatment standards for a particular industrial subcategory, the federal pretreatment standard, if more stringent than specific limitations imposed under this article for industrial users subject to the federal standard, shall supersede the limitations imposed under this article.

(d) Where industrial users combine wastestreams prior to treatment, compliance with an applicable categorical standard will be determined either prior to combining the wastestreams or following treatment of the combined wastestream (by applying the combined wastestream formula found in 40 CFR 403.6(e)).

(e) If any person discharges a substance into the city's sewer system in violation of this section, the environmental officer may terminate the service of sewer and/or water to the premises from which the substance was discharged.

(1993 Code, sec. 52.021; 2006 Code, sec. 82-242; Ordinance 336, sec. 3, adopted 6/1/92)

Sec. 22.10.033 Garbage

(a) No person shall discharge garbage into the sewer system unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in the sewer system. Particles greater than one-half inch in any dimension are prohibited.

(b) The city is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.

(1993 Code, sec. 52.022; 2006 Code, sec. 82-243; Ordinance 336, sec. 4, adopted 6/1/92)

Sec. 22.10.034 Discharges requiring traps

(a) Discharges requiring a trap include any nonresidential establishment discharging:

- (1) Grease or water containing grease;

- (2) Oil;
- (3) Sand;
- (4) Flammable wastes; or
- (5) Other harmful substances.

(b) Any person responsible for discharges requiring a trap shall at their own expense and as required by the environmental officer:

- (1) Provide equipment and facilities of a type and capacity approved by the city.
- (2) Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection.
- (3) Maintain the trap in effective and operating condition.

(1993 Code, sec. 52.023; 2006 Code, sec. 82-244; Ordinance 336, sec. 5, adopted 6/1/92)

Sec. 22.10.035 Slug control plan

(a) Each industrial user shall provide protection from slug discharges. The control authority may require the industrial user to develop and implement a slug control plan. The plan shall contain, at a minimum, the following elements:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5, with procedures for follow-up written notification within five days.

(b) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(1993 Code, sec. 52.024; 2006 Code, sec. 82-245; Ordinance 336, sec. 29, adopted 6/1/92)

Sec. 22.10.036 Notice of potential problems, including slug loading

All categorical and noncategorical industrial users shall notify the POTW and the city immediately of all discharges that could cause problems to the POTW, including any slug loadings, by the industrial user. (1993 Code, sec. 52.025; 2006 Code, sec. 82-246; Ordinance 336, sec. 30, adopted 6/1/92)

Sec. 22.10.037 Dangerous discharges

The control authority, after informal notice to the discharger, can immediately and effectively halt or prevent any discharge of pollutants which reasonably appears to present an imminent endangerment to the health or welfare of persons. The control authority, after notice to the affected industrial users and an opportunity to respond, can halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW. (1993 Code, sec. 52.026; 2006 Code, sec. 82-247; Ordinance 336, sec. 35, adopted 6/1/92)

Sec. 22.10.038 Industrial wastewater surcharge

(a) A surcharge may be applied in addition to the monthly sewer service charge for the discharge of above normal strength wastewater to cover the additional costs of treating such wastewater. Such a charge is collected by the city.

(b) The surcharge shall be calculated as follows:

$$C = [B (Bu - 250) + S (Su - 250)] \times F \times V$$

Where:

C = Surcharge to the user in dollars.

B = Unit cost factor for treating one unit of BOD (per 1,000 gallons).

Bu = The tested BOD of the discharge.

S = Unit cost factor for treating one unit of total suspended solids (per 1,000 gallons).

Su = The tested total suspended solids of the discharge.

F = A factor of 8.34 to convert mg/l to pounds/gallon.

V = Monthly billing volume (discharge) in thousand gallons.

250 = Average domestic BOD and total suspended solids (250 mg/l).

(1993 Code, sec. 52.027; 2006 Code, sec. 82-248; Ordinance 336, sec. 22, adopted 6/1/92)

Secs. 22.10.039–22.10.060 Reserved

Division 3. Industrial Wastewater Discharge Permit

Sec. 22.10.061 Required

(a) Notification regarding nature and characteristics of wastewater. All nondomestic users must notify the environmental officer of the nature and characteristics of their wastewater prior to commencing their discharge. The environmental officer is authorized to prepare a form for this purpose.

(b) Violations. It shall be unlawful for significant industrial users to discharge wastewater, whether directly or indirectly, into the city's sanitary sewer system without first obtaining an industrial user pretreatment permit from the city. Any violation of the terms and conditions of an industrial user wastewater permit shall be deemed a violation of this article. Obtaining an industrial user wastewater discharge permit does not relieve a permittee of its obligation to obtain other permits required by federal, state, or local law.

(c) Requirements for users such as liquid waste haulers. The environmental officer may require that other industrial users, including liquid waste haulers, obtain industrial user wastewater discharge permits as necessary to carry out the purposes of this article.

(d) Time period for obtaining permit and for submission of application. All existing significant users connected to or contributing to the POTW shall obtain a wastewater discharge permit within 180 days after the effective date of the ordinance from which this article is derived. The application must be submitted to the control authority within 90 days after the effective date of the ordinance from which this article is derived.

(e) New connections. Any significant industrial user proposing to begin or recommence discharging nondomestic wastes into the sanitary sewer system must obtain a wastewater discharge permit prior to beginning or recommencing such discharge. For categorical industrial users, a baseline monitoring report (see section 22.10.092) will be used as an application for this permit and must be filed at least 90 days prior to commencement of discharge. For noncategorical industrial users, a permit application must be filed in accordance with section 22.10.062.

(f) Reapplication. Once permitted, the industrial user has the duty to reapply if the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit. The industrial user must submit an application for a new permit at least 90 days before the expiration of the permit in accordance with section 22.10.062. The application form may be obtained from the control authority.

(1993 Code, sec. 52.040; 2006 Code, sec. 82-271; Ordinance 336, sec. 7, adopted 6/1/92)

Sec. 22.10.062 Application

(a) Completion of form; filing; information to be included. Significant industrial users required to obtain an industrial wastewater discharge permit shall complete and file with the environmental officer an application upon a form provided by the city. A permit fee shall accompany the application. In support of the application, the significant industrial user shall submit the following information:

- (1) Identifying information. The user shall submit the name and address of the facility, including the name of the operators and owners.
- (2) Permits. The user shall submit a list of any environmental control permits held by or for the facility.
- (3) Description of operations. The user shall submit a brief description of the nature, average rate of production, and the Standard Industrial Classification of the operation carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) Flow measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - (A) Regulated process streams; and
 - (B) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

The control authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

- (5) Sampling and analysis. Wastewater constituents and characteristics, including but not limited to those mentioned in this article and any federal, state or local standards. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act, in 40 CFR 136, as amended, and in 40 CFR 403.12(b)(5), as amended.
- (6) Certification. A statement, reviewed by an authorized representative of the industrial user (as defined in section 22.10.097), and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.
- (7) Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide

such additional pretreatment and/or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to the schedule required by this section:

- (A) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing plans, executing contract for major components, commencing construction, completing construction, and the like).
- (B) No increment referred to in subsection (a)(7)(A) of this section shall exceed nine months.

Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the control authority.

- (8) Other information. Any other information as deemed necessary by the city to evaluate the permit application.

(b) Determination. The environmental officer shall issue a permit if he determines that pretreatment facilities are adequate for efficient treatment and that discharged wastes will comply with the requirements of sections 22.10.031 and 22.10.032 and state or federal pretreatment standards, if applicable.

(1993 Code, sec. 52.041; 2006 Code, sec. 82-272; Ordinance 336, sec. 13, adopted 6/1/92)

Sec. 22.10.063 Conditions

Industrial wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city. Permits shall contain, but not be limited to, the following:

- (1) Statement of duration (in no case more than five years);
- (2) Statement of nontransferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
- (3) Effluent limits based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law;
- (4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards, local limits, and state and local law;
- (5) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(1993 Code, sec. 52.042; 2006 Code, sec. 82-273; Ordinance 336, sec. 14, adopted 6/1/92)

Sec. 22.10.064 Issuance process

(a) Permit duration. Permits shall be issued for a specified period, not to exceed five years. A permit may be issued for a period less than five years, at the discretion of the environmental officer.

(b) Permit appeals. The environmental officer will provide all interested persons with notice of final permit decisions. Upon notice by the environmental officer, any person, including the industrial user, may petition to appeal the terms of the permit within 30 days of the notice to the environmental appeals committee.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the appeal.
- (2) In its petition, the appealing party must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to be placed in the permit.
- (3) The effectiveness of the permit shall not be stayed pending a reconsideration by the environmental appeals committee. If, after considering the petition and any arguments put forth by the environmental officer, the committee determines that reconsideration is proper, it shall remand the permit back to the environmental officer for reissuance. Those permit provisions being reconsidered by the environmental officer shall be stayed pending reissuance.
- (4) An environmental appeals committee decision not to reconsider a final permit shall be considered final administrative action for purposes of judicial review.

(c) Permit action. The control authority has the power to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by an industrial user where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit. The environmental officer may modify the permit for good cause, including but not limited to the following:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements.
- (2) Material or substantial alterations or additions to the discharger's operation processes or discharge volume or character which were not considered in drafting the effective permit.
- (3) A change in any condition in whether [either] the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- (4) Information indicating that the permitted discharge poses a threat to the control authority's collection and treatment systems, POTW personnel or the receiving waters.
- (5) Violation of any terms or conditions of the permit.
- (6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.
- (7) Revision of or a grant of variance from such categorical standards pursuant to 40 CFR 403.13.
- (8) To correct typographical or other errors in the permit.
- (9) To reflect transfer of the facility ownership and/or operation to a new owner/operator.
- (10) Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(d) Permit transfer. Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the environmental officer.

- (1) The permittee must give at least 30 days' advance notice to the environmental officer.
- (2) The notice must include a written certification by the new owner which:
 - (A) States that the new owner has no immediate intent to change the facility's operations and processes;
 - (B) Identifies the specific date on which the transfer is to occur;
 - (C) Acknowledges full responsibility for complying with the existing permit.

(e) Permit termination. Pretreatment permits may be terminated for reasons including but not limited to the following:

- (1) Falsifying self-monitoring reports.
- (2) Tampering with monitoring equipment.
- (3) Refusing to allow timely access to the facility premises and records.
- (4) Failure to meet effluent limitations.
- (5) Failure to pay fines.
- (6) Failure to pay sewer charges.
- (7) Failure to meet compliance schedules.

(f) Permit reissuance. The user shall apply for permit reissuance by submitting a complete permit application a minimum of 90 days prior to the expiration of the user's existing permit.

(g) Continuation of expired permits. An expired permit will continue to be effective and enforceable until the permit is reissued if:

- (1) The industrial user has submitted a complete permit application at least 90 days prior to the expiration date of the user's permit.
- (2) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user.

(1993 Code, sec. 52.043; 2006 Code, sec. 82-274; Ordinance 336, sec. 16, adopted 6/1/92)

Secs. 22.10.065–22.10.090

Reserved

Division 4. Reporting Requirements

Sec. 22.10.091 General reporting and recordkeeping requirements

(a) If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis within 30 days after becoming aware of the violation.

(b) If an industrial user subject to the reporting requirements of section 22.10.094 or 22.10.095 monitors any pollutant more frequently than required by the control authority, using the procedures as prescribed in 40 CFR 403.12(g)(4), the results of this monitoring shall be included in the report.

(c) Any industrial user subject to the reporting requirements established in this article or the permit shall retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this article or the permit) and shall make [such records] available for inspection and copying by the EPA, the state commission on environmental quality or the POTW. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or the POTW or when requested by the state or the federal government. For all samples, such records shall include but not be limited to:

- (1) The date, exact place, method, and time of sampling and the name of the person or persons taking the samples;
- (2) The date analyses were performed;
- (3) Who performed the analyses;
- (4) The analytical techniques/methods used; and
- (5) The results of such analyses.

(1993 Code, sec. 52.055; 2006 Code, sec. 82-291; Ordinance 336, sec. 17, adopted 6/1/92)

Sec. 22.10.092 Baseline monitoring report

Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the control authority a report which contains the information listed in subsections (1) through (7) of this section. Where reports containing this information have already been submitted to the director or the regional administrator in compliance with the requirement of 40 CFR 128.140(b) (1977), the industrial user will not be required to submit this information again. At least 90 days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the control authority a report which contains the information listed in subsections (1) through (5) of this section. New sources shall also be required to include this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (4) and (5) of this section.

- (1) Identifying information. The user shall submit the name and address of the facility, including the name of the operators and owners;
- (2) Permits. The user shall submit a list of any environmental control permits held by or for the facility;
- (3) Description of operations. The user shall submit a brief description of the nature, average rate of production, and the Standard Industrial Classification of the operation carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
- (4) Flow measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - (A) Regulated process streams; and

- (B) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

The control authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations;

(5) Measurement of pollutants.

- (A) The user shall identify the pretreatment standards applicable to each regulated process;
- (B) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations;
- (C) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The control authority may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged;
- (D) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this section;
- (E) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the control authority;
- (F) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the administrator determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures suggested by the POTW or other parties approved by the administrator;
- (G) The control authority may allow the submission of a baseline monitoring report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- (H) The baseline report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW;

- (6) Certification. A statement, reviewed by an authorized representative of the industrial user (as defined in section 22.10.097), and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements; and
- (7) Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.
 - (A) Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required by this section, the information required by subsections (6) and (7) of this section shall pertain to the modified limits.
 - (B) If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the user submits the report required by this section, any necessary amendments to the information requested by subsections (6) and (7) of this section shall be submitted by the user to the control authority within 60 days after the modified limit is approved.

(1993 Code, sec. 52.056; 2006 Code, sec. 82-292; Ordinance 336, sec. 8, adopted 6/1/92)

Sec. 22.10.093 Compliance schedule for meeting categorical pretreatment standards

The following conditions shall apply to the schedule required by section 22.10.092(7):

- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing plans, executing contracts for major components, commencing construction, completing construction, and the like).
- (2) No increment referred to in subsection (1) of this section shall exceed nine months.
- (3) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the control authority.

(1993 Code, sec. 52.057; 2006 Code, sec. 82-293; Ordinance 336, sec. 9, adopted 6/1/92)

Sec. 22.10.094 Ninety-day compliance report

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following the commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the control authority a report containing the information described in section 22.10.092(4) through (6). For industrial users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all

other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. (1993 Code, sec. 52.058; 2006 Code, sec. 82-294; Ordinance 336, sec. 10, adopted 6/1/92)

Sec. 22.10.095 Periodic reports on continued compliance

(a) Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the control authority during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority or the approval authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in section 22.10.092(4) except that the control authority may require more detailed reporting of flows. At the discretion of the control authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, and the like, the control authority may agree to alter the months during which the above reports are submitted.

(b) Where the control authority has imposed mass limitations on industrial users as provided for by 40 CFR 403.6(d), the report required by subsection (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

(c) For industrial users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in 40 CFR 403.6(c), the report required by subsection (a) of this section shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by subsection (a) of this section shall include the user's actual average production rate for the reporting period.

(1993 Code, sec. 52.059; 2006 Code, sec. 82-295; Ordinance 336, sec. 11, adopted 6/1/92)

Sec. 22.10.096 Reporting requirements for significant noncategorical industrial users

Significant noncategorical industrial users shall submit to the control authority at least once every six months (on dates specified by the control authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the control authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the administrator determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons approved by the administrator. This sampling and analysis may be performed by the control authority in lieu of the significant noncategorical industrial user. Where the control authority collects all the information required for the report, the noncategorical significant industrial users will not be required to submit the report. (1993 Code, sec. 52.060; 2006 Code, sec. 82-296; Ordinance 336, sec. 12, adopted 6/1/92)

Sec. 22.10.097 Signatory requirements

The reports required under sections 22.10.092 and 22.10.094 through 22.10.096 shall include the certification below:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to

the best of my knowledge, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

and shall be signed as follows:

- (1) By a responsible corporate officer, if the industrial user submitting the reports is a corporation.
- (2) By a general partner or proprietor if the industrial user submitting the report is a partnership or sole proprietorship, respectively.
- (3) The principal executive officer or environmental officer having responsibility for the overall operation of the discharging facility if the industrial user submitting the reports is a federal, state, or local governmental entity, or their agents.
- (4) By a duly authorized representative of the individual designated in subsection (1), (2) or (3) of this section if:
 - (A) The authorization is made in writing by the individual described in subsection (1), (2) or (3) of this section;
 - (B) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or wellfield superintendent, or a position of equivalent responsibility for environmental matters for the company; and
 - (C) The written authorization is submitted to the city.
- (5) If an authorization under subsection (4) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (4) of this section must be submitted to the city prior to or together with any reports to be signed by an authorized representative.

(1993 Code, sec. 52.061; 2006 Code, sec. 82-297; Ordinance 336, sec. 15, adopted 6/1/92)

Sec. 22.10.098 Falsifying information

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article, shall, upon conviction, be punished by a fine of not more than \$2,000.00 for each conviction. (1993 Code, sec. 52.062; 2006 Code, sec. 82-298; Ordinance 336, sec. 27, adopted 6/1/92)

Sec. 22.10.099 Notification of discharge of hazardous wastes

(a) Industrial users shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. Industrial users shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this section need

be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 408.12(b), (d) and (e).

(b) Dischargers are exempt from the requirements of section 22.10.036 during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional information.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA regional waste management division director and the state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under section 22.10.036, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(1993 Code, sec. 52.063; 2006 Code, sec. 82-299; Ordinance 336, sec. 32, adopted 6/1/92)

Sec. 22.10.100 Confidential information

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this article, the National Pollutant Discharge Elimination System (NPDES) permit, the state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data, as defined in 40 CFR 2.302, will not be considered confidential.

(1993 Code, sec. 52.064; 2006 Code, sec. 82-300; Ordinance 336, sec. 33, adopted 6/1/92)

Secs. 22.10.101–22.10.120 Reserved

Division 5. Inspection and Sampling

Sec. 22.10.121 Generally

(a) Representatives of the city, the U.S. Environmental Protection Agency, the state commission on environmental quality, and the department of state health services, or any successor agency bearing proper credentials and identification, shall be permitted to enter any properties at any reasonable time for the purpose of inspection, observation, measurement, sampling, examination and copying of records, and testing of the sewage system or any wastewater discharged into the sewage system.

(b) The environmental officer shall carry out all inspection and monitoring procedures necessary to determine compliance with applicable pretreatment standards and requirements.

(c) Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security and fire protection.

(1993 Code, sec. 52.075; 2006 Code, sec. 82-321; Ordinance 336, sec. 23, adopted 6/1/92)

Sec. 22.10.122 Determination of character and concentration of wastewater

(a) The wastewater discharged or deposited into the sewage system shall be subject to periodic inspection and sampling as often as may be deemed necessary by the environmental officer. Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage system and determining the existence of hazards to health, life, limb, and property.

(b) The examination and analysis of the characteristics of waters and wastes:

- (1) Such examination and analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(b) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator. Where 40 CFR 136 does not include sampling or analytical techniques for the pollutants in question, or where the administrator determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties approved by the administrator.
- (2) Such examination and analysis shall be determined from suitable samples taken at the control manhole provided or other control points authorized by the city provided at the expense of the industry.
- (3) The city may select an independent firm or laboratory to perform sampling and laboratory analyses.
- (4) The determination of the character and concentration of industrial wastewater shall be made by the environmental officer at such times and on such schedules as he may establish.
- (5) The city may require any person determined to be discharging wastewater in violation of this article to compensate the city for the costs of sampling, analyses of the discharges and additional administrative fees until the discharged wastewater is in compliance with this article.

(1993 Code, sec. 52.076; 2006 Code, sec. 82-322; Ordinance 336, sec. 20, adopted 6/1/92)

Sec. 22.10.123 Control manhole

(a) When necessary to monitor wastewater discharged into the sewage system, the environmental officer may require an industrial user to install a suitable control manhole in order to adequately sample and measure such wastewater. Installation of meters, equipment and accessories as deemed necessary by the environmental officer may also be required.

(b) Required control manholes shall be located to provide ample room in or near the facility to allow accurate sampling and preparation of samples for analyses. The manhole and any required installed equipment shall be maintained by the user at all times in safe and proper operating condition.

(c) Before beginning construction of a control manhole, the user shall submit plans to the environmental officer for review and approval to ensure compliance with this section. Plans must include any meters or other equipment required to be installed.

(1993 Code, sec. 52.077; 2006 Code, sec. 82-323; Ordinance 336, sec. 24, adopted 6/1/92)

Sec. 22.10.124 Fees for sampling and analysis

(a) Each significant industrial user for which the control authority has reporting requirements under its National Pollutant Discharge Elimination System permit shall compensate the city for the cost of sampling, laboratory analyses and administration required to monitor wastewater discharges. The environmental officer shall determine the number of samples and frequency of sampling necessary to maintain surveillance of discharges.

(b) Each contributing industry or commercial firm for which the city is required to take samples and run laboratory analyses to monitor wastewater discharges shall compensate the city for the cost of sampling and laboratory analyses.

(c) All fees required under this article shall be invoiced to the contributing industry or commercial firm by the city and shall be payable as indicated on the invoice.

(1993 Code, sec. 52.078; 2006 Code, sec. 82-324; Ordinance 336, sec. 21, adopted 6/1/92)

Secs. 22.10.125–22.10.150 Reserved**Division 6. Abatement of Violations****Sec. 22.10.151 Procedures for abatement of violations**

(a) Whenever the environmental officer has determined that any person has violated any provision of this article or a permit, or that such violation is continuing or reoccurring, he will investigate and respond to such instances of industrial user noncompliance in accordance with the enforcement response plan developed by the city in accordance with 40 CFR 403.8(f)(5). In addition to any other remedy provided for in this article, the environmental officer may issue a notice and order directing that such violation be corrected. Such notice and order shall state:

- (1) The nature of the violation and the provisions of this article which have been violated.
- (2) The corrective action that must be taken and the amount of time allowed to correct the violation.
- (3) That the person receiving the notice or order may appeal to the environmental appeals committee by filing an appeal, in writing, with the environmental officer within five days of the service of the notice or order.
- (4) That failure to comply with the notice or order and failure to file a timely appeal may result in termination of sewer and/or water service.

(b) Any notice and order issued under this article shall be in writing and served in person or by registered or certified mail on the user of the sewage system or other persons determined to be responsible for such violation.

(c) Any person may appeal the notice and order of the environmental officer by filing a written notice of appeal with the environmental officer on forms provided by the environmental officer. Such notice of appeal shall be filed within five days of service of the order.

(d) If no timely appeal is filed, the environmental officer may, if violation is continuing or reoccurring, terminate sewer and/or water service to the person ordered to correct or abate such violation if the violation has not been corrected within the time specified in the order.

(e) The city, after informal notice to the discharger, can immediately and effectively halt or prevent any discharge of pollutants and/or terminate water service when such action is necessary, in the opinion of the environmental officer, in order to stop an actual or threatened discharge which presents, or may present, an

imminent or substantial endangerment to the health or welfare of persons or to the environment, causes interference with the treatment processes, or causes the POTW to violate its NPDES permit.

(1993 Code, sec. 52.090; 2006 Code, sec. 82-341; Ordinance 336, sec. 18, adopted 6/1/92)

Sec. 22.10.152 Penalty; liability for expense, loss or damage caused by violation

(a) Liability for expenses, losses, damage and cleanup; other remedies.

- (1) In addition to prohibiting certain conduct by natural persons, it is the intent of this article to hold a corporation or association legally responsible for prohibited conduct performed by an agent acting in behalf of a corporation or association and within the scope of his office or employment.
- (2) Any person found to be guilty of violating provisions of this article shall become liable to the city for any expense, loss, or damage occasioned by the city for reason of appropriate cleanup and proper disposal of said waste materials. Additionally, an administrative fee up to one-half of assessed cleanup costs may be levied by the city against the guilty person.
- (3) Additionally, the city is entitled to pursue all other criminal and civil remedies, including injunctive (judicial) relief, to which it is entitled under the authority of statutes and/or other ordinances and/or under applicable state and federal laws against a person continuing prohibited discharges or violating any other provision of this article.

(b) Violations as misdemeanor; fine. Any person, operator, or owner who shall violate any provision of this article, or who shall fail to comply with any provision thereof, shall be guilty of a misdemeanor and, upon conviction, be subject to a fine not to exceed \$2,000.00, and each day a violation exists shall constitute a separate offense and shall be punished accordingly.

(1993 Code, sec. 52.999; 2006 Code, sec. 82-342; Ordinance 336, sec. 36, adopted 6/1/92)

ARTICLE 22.11 WATER CONSERVATION AND DROUGHT RESPONSE

Division 1. Generally

Sec. 22.11.001 Water conservation plan adopted

(a) The city council hereby approves and adopts the NTMWD Model Water Conservation Plan (the “plan”), attached to Ordinance 14-09-982 as addendum A, as if recited verbatim herein with the exception of an amended definition of “regulated irrigation property.” Section 2.12 of the plan shall read: REGULATED IRRIGATION PROPERTY means any property that uses 1 million gallons of water or more for irrigation purposes in a single calendar year (...“or is greater than 1 acre in size” is removed from definition). The city commits to implement the requirements and procedures set forth in the adopted plan.

(b) Any customer, defined pursuant to 30 Texas Administrative Code chapter 291, failing to comply with the provisions of the plan shall be subject to a fine of up to two thousand dollars (\$2,000.00) and/or discontinuance of water service by the city. Proof of a culpable mental state is not required for a conviction of an offense under this section. Each day a customer fails to comply with the plan is a separate violation. The city’s authority to seek injunctive or other civil relief available under the law is not limited by this section.

(2006 Code, sec. 82-26; Ordinance 09-08-808, sec. 2, adopted 8/17/09; Ordinance 11-06-886, sec. 2, adopted 6/21/11; Ordinance 14-09-982, secs. 1, 2, adopted 9/2/14)

Secs. 22.11.002–22.11.030 Reserved

Division 2. Drought Contingency and Water Emergency Response Plan***Sec. 22.11.031 Adopted**

The city council hereby approves and adopts the NTMWD Model Water Resource and Emergency Management Plan (the “plan”), attached to Ordinance 14-09-983 as addendum A, as if recited verbatim herein. The city commits to implement the requirements and procedures set forth in the adopted plan. (2006 Code, sec. 82-371; Ordinance 11-10-897, sec. 2, adopted 10/18/11; Ordinance 14-09-983 adopted 9/2/14)

Sec. 22.11.032 Mandatory watering schedule and prohibited hours for Stage 2

In the event the city manager declares Stage 2, customers shall comply with the following schedule for irrigation of existing landscape areas with hose-end sprinklers or irrigation systems:

- (1) Schedule.
 - (A) Residential street addresses ending in odd numbers (1, 3, 5, 7, 9) may water on Mondays and Thursdays only.
 - (B) Residential street addresses ending in even numbers (0, 2, 4, 6, 8) may water on Wednesdays and Saturdays only.
 - (C) Public schools, all nonresidential businesses, the city and HOA entries/medians may water on Fridays and Tuesdays only.
- (2) Prohibited watering hours. All watering is prohibited during the hours of 10:00 a.m. to 6:00 p.m.

(2006 Code, sec. 82-372; Ordinance 11-10-897, sec. 2, adopted 10/18/11)

Sec. 22.11.033 Mandatory watering schedule and prohibited hours for Stage 3

In the event the city manager declares Stage 3, all of the requirements of Stages 1 and 2 remain in effect during Stage 3, except customers shall comply with the following schedule for irrigation of existing landscape areas with hose-end sprinklers or irrigation systems:

- (1) Schedule between April 1 and October 31.
 - (A) Residential street addresses ending in odd numbers (1, 3, 5, 7, 9) may water on Mondays only.
 - (B) Residential street addresses ending in even numbers (0, 2, 4, 6, 8) may water on Wednesdays only.
 - (C) Public schools, all nonresidential businesses, the city and HOA entries/medians may water on Fridays only.
- (2) Schedule between November 1 and March 31. Limit landscape watering with sprinklers or irrigations systems between November 1 and March 31 to once every two weeks. Specific dates will be published on the city website of designated watering days for designated service zones and water customers.

* **State law reference**—Drought contingency plans, V.T.C.A., Water Code, sec. 11.1272.

- (3) Prohibited watering hours. All watering is prohibited during the hours of 10:00 a.m. to 6:00 p.m.

(2006 Code, sec. 82-373; Ordinance 11-10-897, sec. 2, adopted 10/18/11; Ordinance 13-11-961, sec. 2, adopted 11/5/13)

Sec. 22.11.034 Water rate surcharge

In the event the city manager declares Stage 4, all of the requirements of Stages 2 and 3 remain in effect during Stage 4 with the same mandatory irrigation schedule listed in Stage 3 and, in addition, a customer will be charged a water rate surcharge for water usage as follows:

<u>Gallons</u>	<u>Rate</u>
0 - 15,000	1.25 times the regular rate
15,001 - 30,000	2 times the regular rate
30,001 - 45,000	2.5 times the regular rate
45,001+	3 times the regular rate

The regular rate shall be established pursuant to the city's fee ordinance on an annual basis.

(2006 Code, sec. 82-374; Ordinance 11-10-897, sec. 2, adopted 10/18/11)

Sec. 22.11.035 Variances and exceptions

(a) Customers may water new planting of grass within the first 30 days up to four hours a day by any means. Watering is prohibited from 10:00 a.m. to 6:00 p.m.

- (1) Prior to the first day of the 30-day watering period, residents or businesses must provide the following information to the city:
 - (A) Address;
 - (B) Company name;
 - (C) Superintendent name;
 - (D) Superintendent contact number;
 - (E) First day of 30-day watering period;
 - (F) Expiration date of 30-day watering period; and
 - (G) Starting and ending time of watering period.
- (2) Customers are required to have a weatherproof sign, capable of lasting the full 30-day watering period, posted in the front yard. The sign shall be separate and not attached to any other signs. In addition, a window sign shall be posted on the inside of a window, on the front of the building. The sign shall be legible from the street on neon colored paper with black print. Window signs shall include the following information:
 - (A) Company name;
 - (B) Address;
 - (C) Approved 30-day watering period;

- (D) Approved day of the week, as specified in Stage 3 restrictions;
 - (E) Starting date and ending date of the 30-day water period; and
 - (F) Starting and ending time of the watering period.
- (b) The city manager or his/her designee may, in writing, grant a temporary variance of existing water uses otherwise prohibited under the plan if the city manager or his/her designee determines that the failure to grant such a variance would cause an emergency condition adversely affecting the public health, safety or welfare, or the person requesting the variance would suffer an undue hardship and the person demonstrates that:
- (1) Compliance with the plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect; or
 - (2) Alternative methods can be implemented which will achieve a similar level of compliance.
- (c) A petition for a variance must include the following:
- (1) The name and address of petitioners;
 - (2) The purpose of the intended water use;
 - (3) The specific requirement of the plan from which the petitioner is requesting relief;
 - (4) A detailed statement as to how the specific requirement creates a hardship unique to the petitioner or adversely affects the petitioner, and a statement as to what damage or harm will occur to the petitioner or others if the petitioner complies with this article;
 - (5) A description of the relief requested;
 - (6) The period of time for which the variance is sought; and
 - (7) A description of what alternative water use restrictions or other measures the petitioner is taking or proposes to take in order to meet the intent of this plan.
- (d) Unless waived or modified in writing by the city manager or his/her designee, a variance granted under this section shall include a timetable for compliance and shall contain a condition terminating the variance if the petitioner fails to meet a specified requirement of the variance.
- (e) A variance expires when a particular drought response stage is no longer in effect. No variance will be retroactive or otherwise justify any violation of this plan that occurs prior to the issuance of the variance.

(2006 Code, sec. 82-375; Ordinance 11-10-897, sec. 2, adopted 10/18/11; Ordinance adopting 2015 Code)

Sec. 22.11.036 Penalty; enforcement of restrictions

- (a) Any customer, defined pursuant to 30 Texas Administrative Code, chapter 291, failing to comply with the provisions of the plan and/or this division shall be prosecuted in municipal court as a class C misdemeanor.
- (1) Upon a showing that the customer has committed no prior violations under this division, customer shall be subject to a fine of not more than one hundred dollars (\$100.00). Proof of a culpable mental state is not required and a violation of this division shall constitute a strict liability offense.
 - (2) Proof that a customer has committed one or more violations under this division shall constitute prima facie evidence that the customer's actions present a threat to the health, safety, and welfare of the city and its resources. Any customer who commits a subsequent violation under this division

with criminal negligence shall be subject to a fine not to exceed two thousand dollars (\$2,000.00). Proof of a higher degree of culpability than criminal negligence constitutes proof of criminal negligence.

(b) Each day that one or more of the provisions in the plan and/or this division are violated shall constitute a separate offense. If a customer is convicted of three or more distinct violations of the plan and/or this division, the city manager or his/her designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, in accordance with the adopted fee schedule, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city manager or his/her designee that the same action shall not be repeated while the plan and/or this division is in effect. Compliance with this plan and/or this division may also be sought through injunctive relief in district court.

(c) Any person, including a person classified as a customer of the city, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parent(s) shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation.

(d) It shall constitute a valid affirmative defense if the alleged violator presents proof that the automatic irrigation system was in disrepair at the time of the alleged violation and provides proof that he/she has satisfactorily remedied the disrepair within thirty (30) days of the date of the violation. This affirmative defense does not apply to alleged violators with more than one outstanding violation pending in municipal court.

(e) Any employee of the city, police officer, or other employee designated by the city manager, may issue a citation to a person he/she reasonably believes to be in violation of the plan and/or this division. The citation shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court not later than either the date shown on the citation or within twenty days of the issuance of the citation. The alleged violator shall be served a copy of the citation in person or by certified mail return receipt. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over eighteen (18) years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court within twenty days to enter a plea of guilty or not guilty for the violation of the plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant.

(2006 Code, sec. 82-376; Ordinance 11-10-897, sec. 2, adopted 10/18/11; Ordinance 14-03-973, sec. 2, adopted 3/18/14; Ordinance adopting 2015 Code)

Sec. 22.11.037 Mandatory provisions in wholesale water contracts

All wholesale water contracts entered into or renewed after adoption of the plan and/or this article, including contract extensions, shall include a provision that requires all wholesale water customers of the city to comply with the provisions of the plan and/or this article. (2006 Code, sec. 82-377; Ordinance 11-10-897, sec. 2, adopted 10/18/11)

ARTICLE 22.12 CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION***Sec. 22.12.001 Purpose; scope**

There is hereby established a cross-connection control program, the purpose of which is to promote the public health, safety, and welfare, of regulations designed to:

- (1) Protect the public water system of the city from the possibility of contamination or pollution by isolating within a customer's private water system contaminants or pollutants that could backflow into the city's public water system;
- (2) Promote the elimination or control of existing cross-connections, whether actual or potential, between a customer's potable water system and nonpotable water systems;
- (3) Provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination of the city's public water system; and
- (4) Comply with chapter 290 of the state commission on environmental quality rules and regulations for public water systems.

(2006 Code, sec. 82-407; Ordinance 11-11-898, sec. 2, adopted 11/1/11)

Sec. 22.12.002 Definitions

For the purpose of this article, the following definitions apply, unless the context clearly indicates or requires a different meaning. If a word or term used in this article is not contained in the following list, its definition, or other technical terms used, shall have the meanings or definitions listed in the most recent edition of the city plumbing code and/or the Manual of Cross-Connection Control published by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, a copy of which is on file in the office of the city secretary, or in the third edition of the Recommended Practice for Backflow Prevention and Cross-Connection Control Manual M14 published by the American Water Works Association.

Auxiliary water supply. Any water supplied other than water provided by the city's public water system, including water from another public water system or from a natural source, including, but not limited to, wells, cisterns, springs, rivers, streams, used waters, or industrial fluids.

Backflow. The reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of a potable water supply from any sources other than the city's public water system.

Backflow prevention assembly or assembly. An assembly that when properly installed between the city's public water system and the terminus or point of ultimate use will prevent backflow.

City. The City of Murphy through the city manager or any representative, inspector or employee designated by the city manager.

Cross-connection. A physical connection between a public water system and either another supply of unknown or questionable quality, any source which may contain contaminating or polluting substances, or any source of water treated to a lesser degree than an approved or auxiliary water supply source in the treatment process.

Customer. A person, company or entity contracting with the city to receive potable water service.

Nonresidential use. Water used by any person other than a single-family or duplex residential customer of the water supply.

* **State law reference**—Backflow prevention, V.T.C.A., Occupations Code, sec. 1301.501.

Person. Any individual, partnership, association, corporation, firm, club, trustee, receiver, body politic and corporate, and any other such entity.

Premises or property. Any property, real, improved or personal, that is connected to the city's public water system.

Public water system or system. Any public water system, including the system owned by the city, which supplies water for public domestic use. The system will include all services, reservoirs, facilities, and any equipment used in the process of producing, treating, storing, or conveying water for public consumption.

Tester. A person that is a certified backflow prevention assembly technician approved by and registered with the city and the TCEQ.

Water use survey. A survey conducted or caused to be conducted by the local authority designed to identify any possible sources of contamination to the potable water supply.

(2006 Code, sec. 82-408; Ordinance 11-11-898, sec. 2, adopted 11/1/11)

Sec. 22.12.003 Applicability

This article applies to all properties that are connected to the city's public water system. (2006 Code, sec. 82-409; Ordinance 11-11-898, sec. 2, adopted 11/1/11)

Sec. 22.12.004 Registration of backflow prevention assembly testers

(a) **Required; qualifications.** Prior to performing any testing of backflow prevention assemblies within the city, a licensed backflow prevention assembly tester must be registered with the city utility department.

- (1) Eligibility for registration shall be conditioned upon the applicant providing proof of being currently licensed as a backflow prevention assembly tester by the state commission on environmental quality.
- (2) Each applicant licensed as a backflow prevention assembly tester with the state shall furnish evidence to the city to show that he/she has available the necessary tools and equipment to properly test and certify such assemblies. Serial numbers of all test gauges shall be registered with the city. Registered serial numbers of test gauges shall be listed on tests and maintenance reports prior to being submitted to the city. Each recorded test kit shall be tested annually for accuracy and calibrated to maintain a +/- two percent (+/- 2%) accuracy factor. Failure to register the serial number or calibrate gauges annually shall be grounds for temporary suspension of a tester's registration until compliance with this requirement is attained.
- (3) Registration shall remain in force provided that the tester maintains his/her eligibility for registration by complying with all requirements of this article and applicable state law. Evidence of renewal of the tester's TCEQ backflow prevention testing license shall be furnished to the city upon request. A tester shall advise the city if the tester's state license is ever suspended or terminated within five business days of notice to the tester of such suspension or termination.

(b) **Fee.** An annual registration fee in an amount established in accordance with the adopted fee schedule shall be paid at the time shall be paid at the time an application for annual registration is submitted to the city. This annual registration fee includes the city's verification of the tester's equipment and tools.

(c) **Responsibilities.** Licensed backflow prevention assembly testers shall be responsible for performing competent tests, issuing accurate reports of backflow prevention assembly test reports and test fees to the city. Licensed backflow prevention assembly testers shall not change the design or operational characteristics of a backflow prevention assembly during repair or maintenance without prior written approval of the city.

(2006 Code, sec. 82-410; Ordinance 11-11-898, sec. 2, adopted 11/1/11; Ordinance adopting 2015 Code)

State law references—Licensing and registration of persons who perform duties relating to public water supplies, V.T.C.A., Health and Safety Code sec. 341.034 and V.T.C.A., Water Code ch. 37; endorsement of water supply protection specialists, V.T.C.A., Occupations Code sec. 1301.357.

Sec. 22.12.005 Backflow prevention assemblies required

(a) No water service connection shall be made to any establishment where a potential or actual contamination hazard exists unless the city's public water system is protected in accordance with the state commission on environmental quality rules and regulations for public water systems (TCEQ rules) and this article.

(b) Each service connection from the city's public water system to premises having an auxiliary water supply system shall be protected against backflow of water from the premises into the city's public water system with a reduced pressure backflow prevention assembly.

(c) For all newly constructed premises on which a substance is handled so that it may enter the city's public water system, each service connection from the public water system to such premises shall be protected against the backflow of water from the premises into the public water system. This requirement shall apply to each premises on which persons handle process water and water originating from the public water system which has been subjected to deterioration in sanitary quality.

(d) For all existing premises on which a substance is handled so that it may enter the city's public water system, each service connection from the public water system to such premises may be required to be protected against the backflow of water from the premises into the public water system upon the determination of the city. This requirement shall apply to each premises on which persons handle process waters and waters originating from the public water system which have been subjected to deterioration in sanitary quality.

(e) Backflow prevention assemblies shall be installed on a service connection to premises: (i) having internal cross-connections that cannot be permanently corrected and controlled in compliance with this article, (ii) upon the city's determination that an intricate plumbing and piping arrangement exists which makes it impractical to ascertain whether cross-connections exist therein, or (iii) where a portion of the premises cannot be readily accessed for inspection purposes making it impractical or impossible to ascertain whether cross-connections exist. The customer connected to the city's public water system shall make all necessary arrangements, at its sole expense, to remove without delay security barriers or other obstacles to access by the city.

(f) If an inter-street main flow may result from two or more services supplying water to the premises, then a standard check valve shall be installed adjacent to the respective meters and on the owner's property. If a check valve is not adequate to protect the public water system's mains from pollution or contamination, the installation of an approved backflow prevention assembly may be required by the city.

(g) If a health hazard exists, a testable backflow prevention assembly shall be required. The backflow prevention assembly shall be a reduced pressure backflow prevention assembly, or air gap.

(h) Non-health hazards shall require a double check backflow prevention assembly, pressurized vacuum breaker, or vacuum breaker installed downstream of a normally closed water supply valve. Any cross-connection under backpressure shall require an air gap or reduced pressure backflow prevention assembly.

(2006 Code, sec. 82-411; Ordinance 11-11-898, sec. 2, adopted 11/1/11)

Sec. 22.12.006 Backflow prevention assembly installation requirements

All new, replacement, or reconditioned backflow prevention assemblies shall be installed in accordance with the International Plumbing Code, as adopted and amended by the city, and with the following standards, unless otherwise directed or approved by the city:

- (1) Plumbing permit required. Prior to installation, a plumbing permit must be obtained from the building inspection department of the city.
- (2) Installation. The assembly shall not be located in the same vault or meter box with the city's water meter. Backflow prevention assemblies shall not be installed within three feet of a water meter box or vault. All backflow prevention assembly installation shall be done in accordance with the approved backflow prevention assemblies issued by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research, a copy of which is on file in the city's public works department. If installed in a structure, all backflow prevention assemblies must be easily accessible for testing, repair or replacement.
- (3) Location. The owner or occupant must prove to the city that no connections or tees are located between the meter and the backflow prevention assembly. The relief valve discharge on a reduced pressure backflow prevention assembly shall not be solidly piped into a sump, sewer, drainage ditch, etc. Test cocks shall not be used as supply connections.
- (4) Air gap separation. All piping from the service connection to the receiving tank shall be above grade and be entirely visible. No water use shall be provided from any point between the service connection and the air gap separation. The water inlet piping shall terminate at a distance of at least two pipe diameters of the supply inlet, but in no case less than one inch, above the overflow rim of the receiving tank. An "approved air gap separation" shall be at least twice the diameter of the supply pipe measured vertically above the overflow rim of the vessel and shall in no case be less than one inch.
- (5) Reduced pressure backflow prevention assemblies. Reduced pressure backflow prevention assemblies shall be installed above ground level and shall be placed a minimum of 12 inches above the finished grade to allow clearance for repair work. A freeze-proof enclosure with a concrete slab at finished grade is recommended. Where it is impractical to install the assembly outside, the installation may be made inside the building in an area not susceptible to flooding. Proper free-flowing/gravity drainage must be provided for the relief valve. If the drain line is to drain outside, then the termination point must be a minimum of 12 inches above finished grade.
- (6) Double check valve assemblies. Double check valve assemblies can be installed above finished grade in a freeze-proof enclosure or below grade in a vault. If the assembly is installed below grade, the test cocks must be plugged with corrosion resistant watertight plugs. The assembly shall be a minimum of 12 inches above the floor.
- (7) Bypass. If a bypass is installed around any approved backflow prevention assembly, the bypass must be protected from backflow/backpressure with the same type of backflow prevention assembly that it has bypassed. The backflow prevention assembly on the bypass must be installed according to the same requirements as the service line assembly.
- (8) Thermal expansion. The installation of a backflow prevention assembly may create a closed system which may result in thermal expansion.
- (9) Lost pressure. The city is not responsible for any pressure loss created by the installation of a backflow prevention assembly.

(2006 Code, sec. 82-412; Ordinance 11-11-898, sec. 2, adopted 11/1/11)

Sec. 22.12.007 Backflow prevention assembly testing, testing reports, maintenance and inspections

(a) Testing. It is the responsibility of the person who owns or controls property to have all assemblies tested in accordance with this article. All backflow prevention assemblies shall be tested upon installation by a registered backflow prevention assembly tester as provided in section 22.12.004 and certified to be operating within specifications. Backflow prevention assemblies for nonresidential customers shall be tested annually and shall also be tested immediately after installation, relocation, repair or work performed upstream of the assembly. In addition, premises that have been vacated and unoccupied for one year must be tested prior to reoccupancy. The city, however, may require more frequent testing upon ten days' prior written notice to the owner, occupant, manager or other person in control of the premises or the person responsible for the maintenance of the property. Each customer shall be responsible for all costs of such testing. All backflow prevention assemblies shall be tested in accordance with the manufacturer's instructions, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14) or the University of Southern California's Manual of Cross-Connection Control.

(b) Calibration of test gauges. Test gauges used for backflow prevention assembly testing shall be calibrated at least annually in accordance with the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current edition, or the University of Southern California's Manual of Cross-Connection Control, current edition. The original calibration form must be submitted to the city within five working days after calibration.

(c) Reports. A city backflow prevention assembly test report form shall be completed by each registered backflow prevention assembly tester on each backflow prevention assembly tested. Each completed original form, together with the records of such tests, repairs or replacements, shall be submitted to the city within five working days of the test, repairs or replacement of each backflow prevention assembly.

(d) Maintenance. Assemblies shall be maintained, repaired, overhauled, or replaced at the expense of the customer whenever said assemblies are found to be defective. An assembly is defective if it is not a properly installed backflow prevention assembly as required by this article.

(e) Removal, relocation or substitution of backflow prevention device. No backflow prevention assembly or device shall be removed from use, relocated, or other assembly or device substituted without the approval of the city. Whenever the existing assembly or device is moved from the present location or cannot be repaired, the backflow assembly or device shall be replaced with a backflow prevention assembly or device that complies with this article, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current edition, University of Southern California's Manual of Cross-Connection Control, current edition, or the current plumbing code of the city, whichever is more stringent.

(f) Customer service inspections.

- (1) Duly authorized employees of the city bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this article. Persons and occupants of premises which are provided water service by the city, either directly or indirectly, shall allow the city or its representatives access at all reasonable times to all parts of the premises for the purposes of, among others, inspection, testing, records examination and/or to facilitate the performance of any of their duties. Where persons or occupants of premises have security measures in force which would require proper identification and clearance before entry into their premises, the persons and occupants of the premises shall make necessary arrangements with their security guards so that, upon presentation of identification, personnel from the city will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
- (2) A customer service inspection shall be completed prior to providing continuous water service to all new construction, on any existing service when the city has reason to believe that cross-connections or other contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.

- (3) The city is not liable for damage to a backflow prevention assembly which may occur during testing, inspection and/or examination.
- (4) A water use survey may be conducted at any premises located in the city which are served by the public water system or which provide water to the public. Upon determination that the premises fall under the provisions of this article and require a backflow prevention assembly, a notice to abate the condition or to install the proper backflow prevention assembly shall be issued by the city.

(2006 Code, sec. 82-413; Ordinance 11-11-898, sec. 2, adopted 11/1/11)

Sec. 22.12.008 Emergency suspension of water service

(a) The city may, without prior notice, suspend water service to any premises when such suspension is necessary to stop an actual or threatened backflow that presents or may present imminent and substantial danger to the environment, to the health or welfare of persons or to the city's public water system because the premises for the water account have:

- (1) A premises isolation device but do not have a point of use device; or
- (2) A premises isolation device that has failed when tested and the location does not have a point of use device.

(b) As soon as is practicable after the suspension of service, the city shall notify the owner or person in charge of the premises in person or by certified mail, return receipt requested, of the suspension, and shall order such person to correct the cross-connection which allowed the backflow to occur. When time permits, the owner or person in charge should be notified prior to suspending water service.

(c) If the person fails to comply with an order issued under subsection (b) of this section, the city may take such steps as the city deems necessary to prevent or minimize damage to the public water system or to minimize danger to persons.

(d) Suspended services shall not be reinstated until:

- (1) The person has presented proof, satisfactory to the city, that the backflow has been eliminated and that its cause determined and corrected;
- (2) The person has paid the city for all costs incurred in responding to the backflow or threatened backflow; and
- (3) The person has paid the city for all costs the city will incur in reinstating service.

(e) A person whose service has been suspended may appeal such enforcement action to the city manager, in writing, within ten days of the date of the notice of suspension.

(f) A person commits an offense if the person reinstates water service to the premises suspended pursuant to this section without the prior approval of the city manager or his designee.

(g) The remedies provided by this section are in addition to any other remedies set out in this article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

(2006 Code, sec. 82-414; Ordinance 11-11-898, sec. 2, adopted 11/1/11)

Sec. 22.12.009 Non-emergency termination of water service

- (a) The city may terminate the water service of any customer who violates the following conditions:
 - (1) Refusing an authorized representative of the city reasonable access to the customer's premises for the purpose of inspection;
 - (2) Hindering or denying an authorized representative of the city access to backflow prevention assemblies; or
 - (3) Failing to install a backflow prevention assembly.
- (b) The city manager or his designee will notify a customer of the proposed termination of its water service. The customer may petition the city manager for a reconsideration and hearing.
- (c) Exercise of this enforcement option by the city shall not be a bar to, nor a prerequisite for, taking any other action against the customer.
- (d) The city manager shall not reinstate suspended services until:
 - (1) The person has presented satisfactory proof that the backflow has been eliminated and its cause has been determined and corrected; and
 - (2) The person has paid the city for all costs the city will incur in reinstating service.
- (e) A person commits an offense if the person reinstates water service to premises terminated pursuant to this section without the prior approval of the city manager or his designee.

(2006 Code, sec. 82-415; Ordinance 11-11-898, sec. 2, adopted 11/1/11)

CHAPTER 23

ADMINISTRATION AND GENERAL PROVISIONS

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ARTICLE 23.01 GENERAL PROVISIONS***Sec. 23.01.001 Land use plan adopted**

- (a) There is hereby adopted by reference the city land use plan, which shall be made a part hereof for all purposes.
- (b) Future zoning changes and capital expenditures and municipal operations shall be, insofar as is practical, consistent with the land use plan hereby adopted.
- (c) This section and the land use plan may be amended from time to time as circumstances and situations may mandate.

(1993 Code, sec. 153.01; 2006 Code, sec. 58-1; Ordinance 290 adopted 1/16/89)

ARTICLE 23.02 IMPACT FEES[†]**Division 1. Generally****Sec. 23.02.001 Statutory authority; purpose; policy**

This article is adopted pursuant to the provisions of V.T.C.A Local Government Code ch. 395, as amended. This article implements a policy of the city to impose impact fees upon each new development project to pay the costs of constructing capital improvements, and facility expansions necessary to serve new development. (2006 Code, sec. 40-1; Ordinance 07-02-717, sec. 4, adopted 2/19/07)

Sec. 23.02.002 Definitions

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

Advisory committee. The planning and zoning commission.

Assessment. The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this article.

Capital improvements. The water supply, treatment, and distribution facilities and wastewater collection and treatment facilities that are identified as existing capital improvements or proposed capital improvements in the capital improvements plan.

Capital improvements plan. A plan contemplated by this article that identifies capital improvements or facility expansions for which impact fees may be assessed.

Credit. The amount of the reduction of an impact fee for fees payments or charges for or construction of the same type of facility.

Facility expansion. The expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

* **State law reference**—Planning and zoning generally, V.T.C.A., Local Government Code, chs. 211, 212, 371.

† **State law references**—Financing capital improvements required by new development, V.T.C.A., Local Government Code, ch. 395; impact fee for development of property receiving economic development tax incentives, V.T.C.A., Tax Code, sec. 313.006.

Final plat approval or approval of a final plat. The point at which the applicant has complied with all conditions of approval and the plat has been released for filing with the county clerk.

Impact fee. A charge or assessment imposed as set forth in this article against new development. The term does not include:

- (1) Required dedications of land for public parks or payments in lieu thereof;
- (2) Dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;
- (3) Lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or
- (4) Other pro rata fees for reimbursement of water or sewer mains or lines extended by the city.

Land use assumptions. A description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a ten-year period which has been adopted by the city and upon which the capital improvements plan is based.

New development. The subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of a structure; or any use or extension of the use of land; any of which increases the number of service units.

Off-site. Located entirely on property which is not included within the bounds of the plat being considered for impact fee assessment.

On-site. Located at least partially on the plat which is being considered for impact fee assessment.

Service area. The entire area within the corporate limits of the city and its extraterritorial jurisdiction to be served by the capital improvements and facilities expansions specified in the capital improvements plan.

Service unit. For the purpose of impact fee assessment, the service unit shall be a single-family residential unit with a five-eighths-inch water meter, as more particularly described in the capital improvements plan.

Sanitary sewer facility. An improvement for providing wastewater collection and treatment, including, but not limited to, land or easements, treatment facilities, lift stations, or interceptor mains. "Sanitary sewer facility" excludes sanitary sewer lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by developers or owners of property in other subdivisions as condition of connection to or use of such facility.

Water facility. An improvement for providing water supply treatment and distribution service including, but not limited to, land or easements, water treatment facilities, water supply facilities, or water distribution lines. "Water facility" excludes water lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by developers or owners of property in other subdivisions as a condition of connection to or use of such facility.

(2006 Code, sec. 40-2; Ordinance 07-02-717, sec. 4, adopted 2/19/07)

Secs. 23.02.003–23.02.030

Reserved

Division 2. Capital Improvements Advisory Committee

Sec. 23.02.031 **Composition; functions; procedural rules**

(a) The planning and zoning commission shall act as the capital improvements advisory committee provided the commission includes at least one representative of the real estate, development, or building industry who is not a city employee or city official. If no such representative is a member of the planning and zoning commission, the commission may still act as the capital improvements advisory committee if at least one such representative is appointed by the city as an ad hoc voting member of the planning and zoning commission when it acts as the capital improvements advisory committee. If any impact fees are to be applied in the extraterritorial jurisdiction of the city, the membership must include a representative from that area.

(b) The capital improvements advisory committee shall perform the following functions:

- (1) Advise and assist the city in adopting land use assumptions;
- (2) Review the impact fee capital improvements plans and file written comments thereon;
- (3) Monitor and evaluate implementation of the impact fee capital improvements plans;
- (4) Advise the city of the need to update or revise the land use assumptions, impact fee capital improvements plans and impact fees; and
- (5) File a semiannual report evaluating the progress of the city in achieving the impact fee capital improvements plans and identifying any problems in implementing the plans or administering the impact fees.

(c) The city council shall adopt, by resolution, procedural rules by which the capital improvements advisory committee may carry out its duties.

(d) The city shall make available to the capital improvements advisory committee any professional reports prepared in the development or implementation of the impact fee capital improvements plans.

(2006 Code, sec. 40-6; Ordinance 07-02-717, sec. 4, adopted 2/19/07)

Secs. 23.02.032–23.02.060 Reserved

Division 3. Water and Wastewater Impact Fees

Sec. 23.02.061 **Periodic updates required**

The land use assumptions and capital improvements plan upon which impact fees are based shall be updated at least once every five years. Alternatively, the city council may, pursuant to the provisions of V.T.C.A [Local Government Code] sec. 395.0575, make a determination that no such update to the land use assumptions, capital improvements plan, or impact fees is required. (2006 Code, sec. 40-10; Ordinance 07-02-717, sec. 4, adopted 2/19/07)

Sec. 23.02.062 **Payment required; exceptions**

(a) No building permit shall be granted for new construction of any property nor shall any original water or sewer service connection be made or service commenced unless and until the impact fees required by this article are assessed and collected or a contract is entered into providing for payment as approved by the city.

(b) For new development located on property which was platted under the procedures of the city prior to adoption of this article, impact fees shall not be due on any service unit for which a valid building permit is issued prior to August 5, 1992.

(c) For new development on property located in subdivisions where all streets, sewers and water lines were constructed by the developer prior to August 5, 1992, no impact fee shall be due.

(2006 Code, sec. 40-11; Ordinance 07-02-717, sec. 4, adopted 2/19/07)

Sec. 23.02.063 Assessment and collection

(a) Impact fees shall be assessed and collected at the time plats are released for recordation. Fees for property which was platted prior to August 5, 1992, and for property which is proposed to occur without platting shall be assessed at any time and shall be collected prior to the issuance of any building permit or site excavation, subject to the provisions of section 23.02.062.

(b) Additional impact fees or increases in impact fees shall not be assessed unless the number of service units to be developed on the tract increases. Should the service units be increased, impact fees shall be increased in an amount equal to the current impact fee per service unit multiplied by the difference in number of service units.

(c) Impact fees may be assessed but not collected for property where service is not available unless:

- (1) The city commits to commence construction of necessary facilities identified in the capital improvements plan within two years and have service available in a reasonable time not exceeding five years; or
- (2) The city agrees in writing to permit the owner of the property to construct or finance the required capital improvement or facility expansion and agrees that the costs incurred or funds advanced will either:
 - (A) Be credited against the impact fees otherwise due from the new development;
 - (B) Reimburse the owner for such costs from impact fees paid from other new developments that will use such capital improvements or facility expansions, in which case impact fees shall be reimbursed to the owner at the time collected as other new development plats are recorded; or
 - (C) The owner voluntarily requests that the city reserve capacity to serve future development and the city and the owner enter into a valid written agreement.

(d) The owner of the property for which there is a recorded plat may enter into a written agreement with the city providing for the time and method of payment of impact fees, which agreement shall prevail over any contrary provision of this article.

(2006 Code, sec. 40-12; Ordinance 07-02-717, sec. 4, adopted 2/19/07)

Sec. 23.02.064 Calculation

(a) Impact fees shall be determined by multiplying the number of service units in the proposed development by the impact fee per service unit amounts set out in exhibits A and B, attached to Ordinance 07-02-717 and incorporated herein for all purposes. The number of service units shall be determined by using the service unit equivalence contained in the capital improvements plan.

(b) The determination of impact fees shall be reduced by any allowable credits for the category of capital improvements as provided by section 23.02.065.

(c) The total amount of unpaid impact fees shall be attached to the development application, or, if to be paid at some later date, to the request for other permit or connection.

(d) Replatting shall not require recalculation of impact fees unless the number of service units is increased. If a proposed development increases the number of service units, the impact fee shall be recalculated as provided by section 23.02.063.

(e) The impact fee per service unit may not exceed the amount determined by subtracting a credit for the portion of ad valorem tax and utility service revenues generated by the new service unit during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or in the alternative, a credit equal to 50 percent of the total projected cost of implementing the capital improvements plan from the capital improvements described by V.T.C.A. Local Government Code sec. 395.014(a)(3), and dividing that amount by the total number of projected service units described by V.T.C.A. Local Government Code sec. 395.014(a)(5).

(2006 Code, sec. 40-13; Ordinance 07-02-717, sec. 4, adopted 2/19/07)

Sec. 23.02.065 Credits

If the city requires as a condition of development approval, or otherwise enters into an agreement with a developer, to have the developer construct, fund or otherwise contribute toward the cost of a capital improvement or facility expansion included in the adopted water or wastewater capital improvements plan, the city shall provide for reimbursement in the form of credits against impact fees that would otherwise be due from the development. Such credits shall run with the land and shall be used to reduce the amount of the impact fee that would otherwise be owed at the time of collection of impact fees. If the amount of such credits would be insufficient to reimburse the developer for the cost of required improvements, the city shall provide for reimbursement to the developer up to the balance of the cost of the required improvements from water or wastewater impact fees collected from other new development within the same service area. In determining the amount of such credits, the developer shall submit evidence of the actual, fair-market cost of the required improvements. Such credits shall only be applicable against the impact fees for the type of facility (water or wastewater) for which the capital improvement is made. (2006 Code, sec. 40-14; Ordinance 07-02-717, sec. 4, adopted 2/19/07)

Sec. 23.02.066 Expenditure and accounting for fees and interest

(a) All impact fees collected shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the impact fee is adopted.

(b) Interest earned shall be credited to the account and shall be subject to the same restrictions on expenditures as the funds generating such interest.

(c) Impact fees and the interest earned thereon may be spent only for the purposes for which such impact fees were imposed as shown in the capital improvements plan.

(d) The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

(2006 Code, sec. 40-15; Ordinance 07-02-717, sec. 4, adopted 2/19/07)

Sec. 23.02.067 Refunds

(a) On the request of an owner of property on which an impact fee has been paid, impact fees shall be refunded if existing facilities are available and service is denied or if the city failed to commence construction of facilities required for service within two years of payment of the impact fee or if such construction is not completed within a reasonable time but not in any event later than five years from the date of payment of the impact fee.

(b) Any impact fee funds not expended within ten years after payment shall be refunded.

(c) Refunds shall bear interest calculated from the date of collection to the date of refund at the statutory rate set forth in V.T.C.A. Finance Code sec. 302.002, or its successor statutes.

(d) All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by another political subdivision or governmental entity, payment shall be made to the political subdivision or governmental entity.

(e) The owner of the property on which an impact fee has been paid or another political subdivision or governmental entity that paid the impact fee has standing to sue for a refund under this section.

(2006 Code, sec. 40-16; Ordinance 07-02-717, sec. 4, adopted 2/19/07)

Sec. 23.02.068 Penalty

Any person, firm, or corporation violating any of the provisions or terms of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not to exceed \$2,000.00 for each offense, and each and every violation or day such violation shall continue or exist shall be deemed a separate offense. (2006 Code, sec. 40-17; Ordinance 07-02-717, sec. 5, adopted 2/19/07)

CHAPTER 24

BUILDINGS AND BUILDING REGULATIONS

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ARTICLE 24.01 GENERAL PROVISIONS**Sec. 24.01.001 Standard specifications for public works construction adopted**

(a) Adoption. The city does hereby adopt the “Standard Specifications for Public Works Construction” as promulgated by the North Central Texas Council of Governments and the “Special Provisions” thereto adopted by the City of Plano, together with the “Standard Construction Details” promulgated by the City of Plano, all of which shall be the standards and specifications to be used by the city.

(b) Amendments. The city adopts the specifications and standards as previously specified with the further provision that, as those standards and specifications are from time to time amended by the North Central Texas Council of Governments or the City of Plano, those revisions and specifications shall be incorporated into and made a part of the standards and specifications as they apply to the city.

(1993 Code, sec. 150.19; 2006 Code, sec. 18-74; Ordinance 300 adopted 6/19/89)

Sec. 24.01.002 Construction specifications for water and sewer facilities adopted

(a) Adoption. There is hereby adopted that certain code known as “City of Plano Standard Specifications and Contract Documents for Construction of Water and Sanitary Sewer Improvements.” All water and sewer lines and appurtenances and structures thereto, constructed within the city or within the jurisdiction of the city, shall comply with all the construction specifications of said code as such code may from time to time be amended.

(b) Code to be maintained separately; amendments. The code adopted in subsection (a) of this section, originally adopted by Ordinance 94, shall be maintained as a separate special code apart from this general code and the original adoptive ordinance (Ordinance 94) and all amendments thereto shall remain in full force and effect. All future amendments thereto shall be made by ordinance amending said special code and shall not be recorded as a part of this code.

(1984 Code, sec. 15-7-2; 1993 Code, sec. 150.20; 2006 Code, sec. 18-75; Ordinance 94 adopted 4/19/77)

Sec. 24.01.003 Requirements for the issuance of a certificate of occupancy

(a) No certificate of occupancy may be issued for a structure that fails to meet the technical code requirements set forth in sections 24.01.001, 24.01.002 and article 24.03 of this chapter, as amended and of this Code of Ordinances.

(b) For commercial projects, the developer shall provide the city with a maintenance bond prior to the issuance of a certificate of occupancy. Said maintenance bond shall be in an amount equal to one hundred percent (100%) of the replacement value, as determined by the city, of all public improvements to be dedicated to the city for a period of no less than two (2) years.

(Ordinance 14-01-969, sec. 2, adopted 1/21/14)

ARTICLE 24.02 BUILDING AND FIRE CODES APPEAL BOARD**Sec. 24.02.001 Generally**

In order to hear and decide appeals of orders, decisions or determinations made by the city official relative to the application and interpretation of the International Building Code, International Residential Code, International Mechanical Code, International Plumbing Code, International Energy Code, International Gas Code, International Fire Code, International Electrical Code, International Property Maintenance Code, and National Electrical Code, and any appeals related to the enforcement of article 24.08 of this code, there shall be and is hereby created a board of appeals, known as the “building and fire codes appeal board” or “board” in this article. The building official and fire chief shall be ex officio members of said board but shall have no vote on any

matter before the board. The building and fire codes appeal board shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the city official. (2006 Code, sec. 18-21; Ordinance 06-05-690, sec. 3 (34.80), adopted 5/1/06; Ordinance adopting 2015 Code)

Sec. 24.02.002 Creation; membership

There is hereby created, upon passage of this article, the building and fire codes appeal board consisting of five regular members. (2006 Code, sec. 18-22; Ordinance 06-05-690, sec. 3 (34.81), adopted 5/1/06)

Sec. 24.02.003 Qualifications of members

(a) The building and fire codes appeal board shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and/or property maintenance and are not employees of the jurisdiction.

(b) It is recommended the board consist of individuals from some of the following professions or disciplines, and all members shall be a qualified voter of the city:

- (1) A registered design professional with architectural experience or a builder or superintendent of building construction.
- (2) A registered design professional with structural engineering experience or a builder or superintendent of building construction.
- (3) A registered design professional with mechanical and plumbing engineering experience or a mechanical/plumbing contractor.
- (4) A registered design professional with electrical engineering experience or an electrical contractor.
- (5) A registered design professional with fire protection engineering experience or a fire protection contractor or state fire commission certified fire personnel.

(2006 Code, sec. 18-23; Ordinance 06-05-690, sec. 3 (34.82), adopted 5/1/06)

Sec. 24.02.004 Terms of members; appointment and removal

Members shall serve two-year staggered terms of office at the pleasure of the city council, and shall be removable by the city council for cause or at-will. Board members are to be appointed by the city council annually, filling the vacancies of that year. Such appointment shall be for a term of two years. At the outset, the city council shall appoint three members for a two-year term, and two members for a one-year term. (2006 Code, sec. 18-24; Ordinance 06-05-690, sec. 3 (34.83), adopted 5/1/06; Ordinance adopting 2015 Code)

Sec. 24.02.005 Compensation of members

Members shall hold office at their pleasure, without compensation, except that they may be reimbursed for their actual expenses incurred in the performance of their duties. (2006 Code, sec. 18-25; Ordinance 06-05-690, sec. 3 (34.84), adopted 5/1/06)

Sec. 24.02.006 Officers

The board shall elect its own officers, and each officer shall serve for a period of one year or until his successor is elected.

- (1) Chairperson. The chairperson shall be a voting member of the board. The chairperson shall preside at all meetings where he is present. The chairperson shall implement, or cause to have

implemented, any practice or procedure in the calling of meetings, conduct of meetings, or reporting of activities that he considers in the best interest of the board and shall so inform the city council or consult with the city council when requested and at such time when it appears necessary or desirable.

- (2) Vice-chairperson. The vice-chairperson shall be a voting member of the board. The vice-chairperson shall assist the chairperson in directing the total affairs of the board. The vice-chairperson shall assume all duties of the chairperson in the event that the chair is unable or unwilling to act.

(2006 Code, sec. 18-26; Ordinance 06-05-690, sec. 3 (34.85), adopted 5/1/06)

Sec. 24.02.007 Conflict of interest

A member shall not hear an appeal in which that member has a personal, professional or financial interest. The member shall complete an affidavit of conflict of interest and file it with the board, and shall abstain from voting or discussing the matter. (2006 Code, sec. 18-27; Ordinance 06-05-690, sec. 3 (34.86), adopted 5/1/06)

Sec. 24.02.008 Quorum

A majority of members, which is three voting members, shall constitute a quorum. All motions shall be decided by a simple majority of the members present, at which a quorum is established. A tie vote shall constitute a failure of the motion. (2006 Code, sec. 18-28; Ordinance 06-05-690, sec. 3 (34.87), adopted 5/1/06)

Sec. 24.02.009 Meetings

All proceedings of the board shall be held in an open meeting in accordance with the Open Meetings Act. The board shall be on call to hold one meeting per quarter and/or shall call special meetings as required to conduct their duties. All stated meetings shall be open to the public. (2006 Code, sec. 18-29; Ordinance 06-05-690, sec. 3 (34.88), adopted 5/1/06)

Sec. 24.02.010 Records

All proceedings of the board shall be recorded in minutes of meetings and such minutes approved and made a matter of public record in accordance with the governing laws. (2006 Code, sec. 18-30; Ordinance 06-05-690, sec. 3 (34.89), adopted 5/1/06)

Sec. 24.02.011 Powers and duties

(a) To study proposed code amendments and make recommendations to the city council regarding any proposed amendments to the building codes.

(b) To hear from any person requesting a change to the building codes as adopted by the city.

(c) To serve as an adviser to the chief building official and fire officials.

(d) To hear appeals from decisions of the chief building official and fire officials pertaining to:

- (1) The use of alternate materials and construction methods;
- (2) Interpretations related to the building codes as adopted by the city, i.e., building, electrical, plumbing, mechanical, and fire. The board may not grant variances. In the case of a request to use alternate materials or construction methods, the board should determine whether or not such alternate material or construction method is in fact equal to the standards of the applicable code, considering adequacy, stability, strength, sanitation, and safety for the public's health and welfare; or

- (3) The International Property Maintenance Code, or a notice or order issued pursuant to the International Property Maintenance Code.
- (e) To hear appeals pertaining to the enforcement of article 24.08 of this code.
- (f) Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.
- (g) The board shall modify or reverse the decision of the city official only by a concurring vote of a majority of the board members present at which a quorum is established.

(2006 Code, sec. 18-31; Ordinance 06-05-690, sec. 3 (34.90), adopted 5/1/06; Ordinance adopting 2015 Code)

Sec. 24.02.012 Appeal fee

There is hereby established a fee for an appeal as provided for in the fee schedule found in appendix A of this code. (2006 Code, sec. 18-32; Ordinance 06-05-690, sec. 3 (34.91), adopted 5/1/06)

Sec. 24.02.013 Policies and procedures

Policies and procedures for conduct of business shall be approved by the board and adopted by the city council in the form of a resolution. (2006 Code, sec. 18-33; Ordinance 06-05-690, sec. 3 (34.92), adopted 5/1/06)

ARTICLE 24.03 TECHNICAL AND CONSTRUCTION CODES AND STANDARDS

Division 1. Generally

Sec. 24.03.001 Penalty

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty or fine not to exceed the sum of \$500.00 for each offense, except where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of any provision that governs fire safety, zoning, public health and sanitation, other than vegetation and litter violations, a penalty or fine not to exceed the sum of \$2,000.00 for each offense. Each and every day such offense is continued shall constitute a new and separate offense. (1993 Code, sec. 150.99; 2006 Code, sec. 18-133)

Secs. 24.03.002–24.03.050 Reserved

Division 2. Building Code*

Sec. 24.03.051 Adopted; amendments

(a) Adoption. A certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the International Building Code, with appendices, published by the International Code Council, is hereby adopted as the code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of structures in the city, and providing for the issuance of permits and collection of fees therefor, and each and all

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

of the regulations, provisions, conditions and terms of such International Building Code, 2006 edition, published by the International Code Council, on file in the office of the city secretary, are hereby referred to and adopted and made a part hereof as if fully set out in this section.

(b) Amendments. All deletions, additions, and amendments made by the city are hereby approved and adopted by reference and copies of such can be found in the office of the building official along with the original documents.

(1993 Code, sec. 150.15; 2006 Code, sec. 18-71; Ordinance 01-11-534 adopted 11/19/01; Ordinance 05-01-631, sec. I, adopted 1/3/05; Ordinance 09-01-776, sec. 1, adopted 1/20/09; Ordinance adopting 2015 Code)

Secs. 24.03.052–24.03.100 Reserved

Division 3. Electricity*

Sec. 24.03.101 Electrical code adopted

The 2008 edition of the National Electrical Code as published by the National Fire Protection Association, a copy of which is on file in the office of the city secretary, is hereby adopted and designated as the electrical code of the city, to the same extent as if such code were copied verbatim in this section. (1993 Code, sec. 150.16; 2006 Code, sec. 18-72; Ordinance 03-07-581 adopted 7/7/03; Ordinance 09-01-783, sec. 1, adopted 1/20/09)

Sec. 24.03.102 State licensing of electricians required

(a) For electrical work for which state electrician licensure is required, any person performing said electrical work within the city must have a valid license issued by the state department of licensing and regulation.

(b) Persons without a state license, but holding valid municipal or regional electrician licenses duly recognized under the previous Murphy code, may continue to work in such capacity until December 31, 2005, by which time such persons must have a state license in order to continue to work in such capacity within the city limits.

(2006 Code, sec. 18-51)

State law reference—Texas Electrical Safety and Licensing Act, V.T.C.A., Occupations Code, ch. 1305.

Secs. 24.03.103–24.03.150 Reserved

Division 4. Plumbing Code†

Sec. 24.03.151 Adopted; amendments

(a) Adoption. A certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the International Plumbing Code, with appendices, published by the International Code Council, is hereby adopted as the code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the city, and providing for the issuance of permits and collection of fees therefor, and each and all of the regulations, provisions, conditions and terms of such International Plumbing Code, 2006 edition, published by the International Code Council, on file in the office of the city secretary, are hereby referred to, adopted and made a part hereof as if fully set out in this section.

* **State law reference**—National Electrical Code adopted as municipal residential and commercial electrical code, V.T.C.A., Local Government Code, sec. 214.214.

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

(b) Amendments. All deletions, additions, and amendments made by the city are hereby approved and adopted by reference and copies of such can be found in the office of the building official along with the original documents.

(1993 Code, sec. 150.18; 2006 Code, sec. 18-73; Ordinance 01-11-536 adopted 11/19/01; Ordinance 05-01-634, sec. I, adopted 1/3/05; Ordinance 09-01-779, sec. 1, adopted 1/20/09; Ordinance 10-09-854, sec. 1, adopted 9/7/10; Ordinance adopting 2015 Code)

Secs. 24.03.152–24.03.200 Reserved

Division 5. Fuel Gas Code

Sec. 24.03.201 Adopted; amendments

(a) Adoption. A certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the International Fuel Gas Code, with appendices, published by the International Code Council, is hereby adopted as the code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of buildings in the city, and providing for the issuance of permits and collection of fees therefor, and each and all of the regulations, provisions, conditions and terms of such International Fuel Gas Code, 2006 edition, published by the International Code Council, on file in the office of the city secretary, are hereby referred to and adopted and made a part hereof as if fully set out in this section.

(b) Amendments. All deletions, additions, and amendments made by the city are hereby approved and adopted by reference and copies of such can be found in the office of the building official along with the original documents.

(1993 Code, sec. 150.21; 2006 Code, sec. 18-76; Ordinance 01-11-539 adopted 11/19/01; Ordinance 05-01-635, sec. I, adopted 1/3/05; Ordinance 09-01-780, sec. 1, adopted 1/20/09; Ordinance adopting 2015 Code)

Secs. 24.03.202–24.03.250 Reserved

Division 6. Mechanical Code*

Sec. 24.03.251 Adopted; amendments

(a) Adoption. A certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the International Mechanical Code, with appendices, published by the International Code Council, is hereby adopted as the code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the city, and providing for the issuance of permits and collection of fees therefor, and each and all of the regulations, provisions, conditions and terms of such International Mechanical Code, 2006 edition, published by the International Code Council, on file in the office of the city secretary, are hereby referred to and adopted and made a part hereof as if fully set out in this section.

(b) Amendments. All deletions, additions, and amendments made by the city are hereby approved and adopted by reference and copies of such can be found in the office of the building official along with the original documents.

(1993 Code, sec. 150.22; 2006 Code, sec. 18-77; Ordinance 01-11-537 adopted 11/19/01; Ordinance 05-01-633, sec. I, adopted 1/3/05; Ordinance 09-01-778, sec. 1, adopted 1/20/09; Ordinance adopting 2015 Code)

Secs. 24.03.252–24.03.300 Reserved

* **State law reference**—Air Conditioning and Refrigeration Contractor License Law, V.T.C.A., Occupations Code, ch. 1302.

Division 7. Residential Code***Sec. 24.03.301 Adopted; amendments**

(a) Adoption. A certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the International Residential Code, with appendices, published by the International Code Council, is hereby adopted as the code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one-family and two-family dwellings and townhouses in the city, and providing for the issuance of permits and collection of fees therefor, and each and all of the regulations, provisions, conditions and terms of such International Residential Code, 2006 edition, published by the International Code Council, on file in the office of the city secretary, are hereby referred to, adopted and made a part hereof as if fully set out in this section.

(b) Amendments. All amendments made by the city are hereby adopted by reference and copies of such can be found in the offices of the city secretary along with the original documents.

(1993 Code, sec. 150.23; 2006 Code, sec. 18-78; Ordinance 01-11-535 adopted 11/19/01; Ordinance 05-01-632, sec. I, adopted 1/3/05; Ordinance 05-07-660 adopted 7/18/05; Ordinance 09-01-777, sec. 1, adopted 1/20/09; Ordinance 10-09-855, sec. 1, adopted 9/7/10; Ordinance adopting 2015 Code)

Secs. 24.03.302–24.03.350 Reserved**Division 8. Energy Conservation Code[†]****Sec. 24.03.351 Adopted; amendments**

(a) Adoption. A certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the International Energy Conservation Code, with appendices, published by the International Code Council, is hereby adopted as the code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of building envelope, mechanical, lighting and power systems in the city, and providing for the issuance of permits and collection of fees therefor, and each and all of the regulations, provisions, conditions and terms of such International Energy Conservation Code, 2006 edition, published by the International Code Council, on file in the office of the city secretary, are hereby referred to, adopted and made a part hereof as if fully set out in this section.

(b) Amendments. All amendments made by the city are hereby adopted by reference and copies of such can be found in the offices of the city secretary along with the original documents.

(1993 Code, sec. 150.24; 2006 Code, sec. 18-79; Ordinance 01-11-538 adopted 11/19/01; Ordinance 05-01-638, sec. I, adopted 1/18/05; Ordinance 09-01-781, sec. 1, adopted 1/20/09; Ordinance adopting 2015 Code)

Secs. 24.03.352–24.03.400 Reserved**Division 9. Property Maintenance Code****Sec. 24.03.401 Adopted**

The International Property Maintenance Code, 2003 edition, is hereby adopted in its entirety and made a part hereof as if fully set out in this section. (2006 Code, sec. 18-80; Ordinance 06-05-689, sec. 2, adopted 5/1/06)

* **State law references**—International Residential Code adopted as a municipal residential building code, V.T.C.A., Local Government Code, sec. 214.212; building and residential codes, V.T.C.A., Local Government Code, sec. 214.211 et seq.; Texas Residential Construction Commission Act, V.T.C.A., Property Code, ch. 401 et seq.

[†] **State law reference**—Adoption of building energy efficiency performance standards, V.T.C.A., Health and Safety Code, sec. 388.003.

ARTICLE 24.04 CONSTRUCTION SITE MAINTENANCE**Sec. 24.04.001 Penalty**

Any person, firm, or corporation violating any of the provisions or terms of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not to exceed \$2,000.00 for each offense, and each and every violation or day such violation shall continue or exist shall be deemed a separate offense. (2006 Code, sec. 18-505; Ordinance 05-08-668, sec. 3, adopted 8/15/05)

Sec. 24.04.002 Waste management

Construction site operators must, at a minimum, control waste such as discarded building materials, concrete truck washout water, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. This includes:

- (1) Operators must keep solid waste materials in either a container or an enclosed waste collection area on-site that does not receive a substantial amount of runoff from upland areas and that does not drain directly to a water body, and prohibits pollutant runoff from the construction site;
- (2) Chemicals, paint, petroleum, fertilizer, and pesticides must be stored in a covered enclosure;
- (3) Above-ground petroleum storage tanks must be placed in a bermed enclosure;
- (4) Empty/unused chemical containers must be disposed of in accordance with label instructions;
- (5) Potentially hazardous waste must be segregated from nonhazardous waste;
- (6) Daily cleanup of the construction site must ensure that all litter is contained in an appropriate enclosure or container so as not to accumulate on the ground;
- (7) All construction site wastes must be disposed of at authorized disposal facilities;
- (8) Recycling of waste materials is encouraged where feasible;
- (9) Concrete truck washout water must be contained on-site in a designated washout pit and concrete residue should be removed at the conclusion of construction; and
- (10) Sanitary waste facilities should be located a minimum of 15 feet from storm drain inlets and receiving waters or facilities must be contained.

(2006 Code, sec. 18-501; Ordinance 05-08-668, sec. 2 (95.25), adopted 8/15/05)

Sec. 24.04.003 Cleaning of vehicles or equipment; discharge of water containing concrete or other building materials

It shall be unlawful for any person to clean any truck or other vehicle, or any other equipment containing cement, concrete or other building material, upon any public street in the city, or to cast water containing any such materials into or upon any street, right-of-way, ditch, curb, sewer, culvert, gutter or drain or other public property in the city. (2006 Code, sec. 18-502; Ordinance 05-08-668, sec. 2 (95.26), adopted 8/15/05)

Sec. 24.04.004 Mixing concrete on paved streets prohibited

It shall be unlawful for any person to mix or cause the mixing of concrete on any paved street in the city, except on a platform, or in a box or other receptacle so constructed as to prevent such concrete from falling on the pavement. (2006 Code, sec. 18-503; Ordinance 05-08-668, sec. 2 (95.27), adopted 8/15/05)

Sec. 24.04.005 Street pads

When any equipment is used on city streets which requires the use of stabilizing devices, such devices shall be equipped with street pads. The minimum size of the street pads shall be determined by the city engineer, the city manager, or their designee. (2006 Code, sec. 18-504; Ordinance 05-08-668, sec. 2 (95.28), adopted 8/15/05)

ARTICLE 24.05 MOBILE HOMES, TRAVEL TRAILERS AND TEMPORARY BUILDINGS***Sec. 24.05.001 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:

Mobile home.

- (1) A structure:
 - (A) Constructed before June 15, 1976;
 - (B) Built on a permanent chassis;
 - (C) Designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;
 - (D) Transportable in one or more sections; and
 - (E) In the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on-site, at least 320 square feet; and
- (2) Includes the plumbing, heating, air conditioning, and electrical systems of the home.

(1984 Code, sec. 9-5-1; 1993 Code, sec. 150.35; 2006 Code, sec. 18-101)

Sec. 24.05.002 Penalty

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty or fine not to exceed the sum of \$500.00 for each offense, except where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of any provision that governs fire safety, zoning, public health and sanitation, other than vegetation and litter violations, a penalty or fine not to exceed the sum of \$2,000.00 for each offense. Each and every day such offense is continued shall constitute a new and separate offense. (1993 Code, sec. 150.99; 2006 Code, sec. 18-133)

Sec. 24.05.003 Placement for use as on-site dwelling prohibited

Mobile homes, travel trailers or temporary buildings are prohibited within the city limits, and subsequent to the effective date of the ordinance from which this article derives it shall be unlawful for any person, group of

* **State law reference**—Authority to prohibit installation of mobile homes used for residences, V.T.C.A., Occupations Code, sec. 1201.008.

persons, firm, corporation, entity, contractor, agent, servant or employee to bring, situate, or erect any mobile home, travel trailer or temporary building or any addition thereto, within the corporate city limits, for the purpose of an on-site dwelling. (1984 Code, sec. 9-5-2; 1993 Code, sec. 150.36; 2006 Code, sec. 18-102; Ordinance 12 adopted 4/13/71)

Sec. 24.05.004 Existing structures designated as nonconforming use; additions

(a) Mobile homes, travel trailers or temporary buildings existing within the city limits as of the effective date of the ordinance from which this article derives are hereby designated as a nonconforming use and in violation of the provisions of this article. When and if said mobile homes, travel trailers, or temporary buildings are moved from their present location, then in such event said mobile home, travel trailer or temporary building may only be removed from the city limits and may not be resituated within the city limits.

(b) Expansion of and addition to existing mobile home structures, travel trailers or temporary buildings may not be undertaken without first obtaining the consent of the city manager, who may authorize the issuance of a building permit if the addition or expansion is not in violation of this code and any applicable ordinances of the city.

(1984 Code, secs. 9-5-1, 9-5-3; 1993 Code, sec. 150.37; 2006 Code, sec. 18-103; Ordinance 12 adopted 4/13/71; Ordinance adopting 2015 Code)

ARTICLE 24.06 INDUSTRIALIZED HOUSING*

Sec. 24.06.001 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:

Industrialized housing.

- (1) Industrialized housing means a residential structure that is:
 - (A) Designed for the occupancy of one or more families;
 - (B) Constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and
 - (C) Designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.
- (2) Industrialized housing includes the structure's plumbing, heating, air conditioning, and electrical systems.
- (3) Industrialized housing does not include:
 - (A) A residential structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof;
 - (B) Housing constructed of a sectional or panelized system that does not use a modular component; or

* **State law references**—Industrialized housing and buildings, V.T.C.A., Occupations Code, ch. 1202; municipal authority regarding industrialized housing and buildings, V.T.C.A., Occupations Code, sec. 1202.251 et seq.

- (C) A ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

(2006 Code, sec. 18-131; Ordinance 03-12-596, sec. 1 (150.45), adopted 12/1/03)

Sec. 24.06.002 Penalty

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty or fine not to exceed the sum of \$500.00 for each offense, except where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of any provision that governs fire safety, zoning, public health and sanitation, other than vegetation and litter violations, a penalty or fine not to exceed the sum of \$2,000.00 for each offense. Each and every day such offense is continued shall constitute a new and separate offense. (1993 Code, sec. 150.99; 2006 Code, sec. 18-133)

Sec. 24.06.003 Regulation of single-family and duplex industrialized housing

(a) Single-family or duplex industrialized housing must have all local permits and licenses that are applicable to other single-family or duplex dwellings.

(b) For purposes of this section, single-family or duplex industrialized housing is real property.

(c) Any industrialized housing shall:

- (1) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for the county;
- (2) Have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;
- (3) Comply with city aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings; and
- (4) Be securely fixed to a permanent foundation.

(d) For purposes of subsection (c) of this section, the term “value” means the taxable value of the industrialized housing and lot after installation of the housing.

(e) Any owner or authorized agent who intends to construct, erect, install, or move any industrialized housing into the city shall first make application to the building official and obtain the required permits. In addition to any other information otherwise required for such permits, the application shall:

- (1) Identify each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located, and show the taxable value for each such dwelling as determined by the most recent certified tax appraisal roll for the county;
- (2) Describe the exterior siding, roofing, roof pitch, foundation fascia, and fenestration for each single-family dwelling located with 500 feet of the lot on which the industrialized housing is to be located;
- (3) Identify and describe the building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, and square footage;

- (4) Describe the permanent foundation and method of attachment proposed for the industrialized housing;
 - (5) State the taxable value of the industrialized housing and the lot after installation of the industrialized housing; and
 - (6) Indicate the deed restrictions otherwise applicable to the real property on which the industrialized housing is to be located.
- (f) A person commits an offense if the person:
- (1) Fails to make an application for permit as required by this section; or
 - (2) Constructs, erects, installs or moves any industrialized housing into the city which does not comply with this section.

(2006 Code, sec. 18-132; Ordinance 03-12-596, sec. 1 (150.46) adopted 12/1/03)

ARTICLE 24.07 SWIMMING POOLS

Division 1. Generally

Sec. 24.07.001 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:

Swimming pool. Every body of water used for swimming purposes and all other bodies of water containing 24 inches or more in depth at any point (measured from the surrounding surface nearest the body of water), except bodies of water located in natural drainageways and bodies of water used for livestock watering.

(1993 Code, sec. 156.01; 2006 Code, sec. 18-161; Ordinance 220 adopted 7/24/84; Ordinance 05-04-650, sec. 2, adopted 4/18/05)

Sec. 24.07.002 Penalty

(a) Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not to exceed the sum of \$2,000.00 for each offense, and each and every day such offense is continued shall constitute a new and separate offense.

(b) A person commits an offense if the person violates a permitting requirement, inspection requirement, or closure order issued under section 24.07.041. An offense under section 24.07.041 is a misdemeanor punishable by a fine of not less than \$10.00 or more than \$200.00. If it is shown at trial that the owner or operator has been previously convicted of an offense under section 24.07.041 within a year prior to the date of the current offense, the owner or operator shall be punished by a fine of not less than \$10.00 or more than \$1,000.00, confinement in jail for not more than 30 days, or both. Each day of a continuing violation is a separate offense.

(c) A person who violates a permitting requirement, inspection requirement, or closure order issued under section 24.07.041 shall be assessed a civil penalty of not less than \$10.00 or more than \$200.00 for each violation and for each day of a continuing violation. If it is shown at trial that the owner or operator has previously violated section 24.07.041, the owner or operator shall be assessed a civil penalty of not less than \$10.00 or more than \$1,000.00 for each violation and for each day of a continuing violation.

(1993 Code, sec. 156.99; 2006 Code, sec. 18-168; Ordinance 220 adopted 7/24/84)

Sec. 24.07.003 Enclosure required

(a) Every swimming pool located within the corporate limits of the city shall be protected by an enclosure surrounding the pool area to isolate that area from other activities, sufficient to make such pool reasonably inaccessible to neighboring children. Such enclosure shall be a fence, single-family residence, wall or building, not less than four feet in height for multifamily occupancy and not less than four feet in height for single-family residences. The wall of the pool shall not be considered a part of the required enclosure even though the pool wall extends four feet or more above the ground. The required enclosure shall comply with all adopted city codes and any applicable state law.

(b) Openings under the pool yard enclosure may not allow a sphere four inches in diameter to pass under the pool yard enclosure.

(c) If the pool yard enclosure is constructed with horizontal and vertical members and the distance between the tops of the horizontal members is at least 45 inches, the openings may not allow a sphere four inches in diameter to pass through the enclosure.

(d) If the pool yard enclosure is constructed with horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the openings may not allow a sphere 1-3/4 inches in diameter to pass through the enclosure.

(e) The use of chain-link fencing materials is prohibited entirely for a new pool yard enclosure.

(f) The use of diagonal fencing members that are lower than 49 inches above the ground is prohibited for a new pool yard enclosure.

(1993 Code, sec. 156.02; 2006 Code, sec. 18-162; Ordinance 220 adopted 7/24/84; Ordinance 05-04-650, sec. 3, adopted 4/18/05)

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. 24.07.004 Location of pools and equipment

(a) Swimming pools, water features, slides, and pool equipment located in a single-family residential district, whether under ground or above ground, may be located anywhere behind the front building line and shall have a minimum setback of five feet from the water's edge, structure and/or equipment to the property line. Swimming pools may not be located in any area which cannot be fenced in accordance with the city or state pool enclosure regulations.

(b) Any decking must have a minimum setback of five feet from the property line.

(c) Pools shall be set back from the foundation of the main structure using a 1:1 ratio of the deepest point in the pool unless approved by a registered professional engineer.

(d) Any drainage swale adjacent to any property line located in the five-foot setback must be maintained to prevent drainage of any water onto neighboring properties.

(e) Swimming pools in a multiple-family residence district shall be subject to approval by the city planning and zoning commission after taking into consideration the location and size of the plot, the site, the detailed plans of said swimming pool and any required accessories, and such other factors as may be required for the health, safety and general welfare of the community. In addition, the city planning and zoning commission may require that any swimming pool, including mechanical equipment, be located at such distance from any property

line as to not interfere with the peace, comfort and repose of the occupant of any adjoining building or residence. Any lights illuminating the pool shall be so erected as to eliminate direct rays and minimize reflected rays of light on adjoining premises.

(1993 Code, sec. 156.03; 2006 Code, sec. 18-163; Ordinance 220 adopted 7/24/84; Ordinance 05-04-650, sec. 4, adopted 4/18/05)

Sec. 24.07.005 Additional requirements concerning pool enclosure, gates and doors

(a) In single-family occupancies, the pool enclosure may surround any portion of the area behind the front building line of the residence.

(b) In multifamily occupancies, the enclosure shall separate the pool from any dwelling unit and shall enclose the pool. The enclosure shall not extend at any point beyond 20 feet from the water's edge.

(c) All gates and doors must open outward from the enclosure and shall be equipped with self-latching and self-closing devices capable of keeping the gates and doors securely closed.

(d) All pool enclosures must comply with any adopted city codes or applicable state laws.

(e) The post and rails on pool yard enclosures must be on the inside of the fence on any pool yard enclosure which abuts a street right-of-way. On any lot which has an existing fence on the interior lot line the rails may be made non-climbable by installing 30-degree beveled board on the rails.

(1993 Code, sec. 156.04; 2006 Code, sec. 18-164; Ordinance 220 adopted 7/24/84; Ordinance 05-04-650, sec. 5, adopted 4/18/05)

Sec. 24.07.006 Building plans

(a) All plans submitted to the city for swimming pools to be constructed shall show compliance with the requirements of this article, and final approval of the construction shall be withheld until all requirements of this section have been complied with by the owner, purchaser under contract, lessee, tenant or licensee.

(b) Submittals shall include three sets of plans with dimensions, and three copies of a certified survey plat showing the entire pool layout, decking, water features, and equipment location.

(c) Detailed building plans of any structure such as a gazebo or patio cover must be submitted under a separate building permit.

(1993 Code, sec. 156.05; 2006 Code, sec. 18-165; Ordinance 220 adopted 7/24/84; Ordinance 05-04-650, sec. 6, adopted 4/18/05)

Sec. 24.07.007 Applicability to existing pools

All swimming pools completed and in existence as of the effective date of the ordinance from which this article is derived shall have until October 1, 1993, to comply with the terms of this article. After the effective date of the ordinance from which this article is derived, it shall be unlawful to construct a swimming pool within the corporate limits of the city without first complying with the terms of this article, and after October 1, 1993, it shall be unlawful to maintain any swimming pool within the corporate limits of the city which is not protected by an enclosure in accordance with the requirements of this article. (1993 Code, sec. 156.06; 2006 Code, sec. 18-166; Ordinance 220 adopted 7/24/84)

Sec. 24.07.008 Exceptions

This article shall not apply to bodies of water other than swimming pools (as that term is commonly used) which are owned or controlled by a federal, state, county, city or other governmental agency, subdivision or department thereof. (1993 Code, sec. 156.07; 2006 Code, sec. 18-167; Ordinance 220 adopted 7/24/84)

Secs. 24.07.009–24.07.040 Reserved**Division 2. Public/Semi-Public Swimming Pools*****Sec. 24.07.041 Permit and inspections**

(a) Definition. In this section, the term “public/semi-public swimming pool” is defined to mean an artificial body of water, including a spa, maintained expressly for public/semi-public recreational purposes, swimming and similar aquatic sports, or therapeutic purposes.

(b) Permit required; expiration; denial. No public/semi-public swimming pool shall be operated by any owner or operator without an operational permit issued by the city. Each permit shall expire one year from the date of issuance. A permit application may be denied due to the failure to operate and maintain a pool in accordance with applicable laws and regulations.

(c) Permit fee. No operating permit shall be issued for a public/semi-public swimming pool until the applicant has paid the permit fee as provided in the fee schedule as printed in appendix A to this code.

(d) Inspections. The city, at a reasonable time and after proper identification, may inspect a public/semi-public swimming pool, to determine compliance with state law and this article.

(e) Closure order. The city may by order close, for the period specified in the order, a swimming pool if the operation of the pool violates the permitting or inspection requirements of this section.

(1993 Code, sec. 156.25; 2006 Code, sec. 18-191; Ordinance 03-12-597, sec. 1, adopted 12/1/03)

Sec. 24.07.042 Fee

Each separate public/semi-public swimming pool operating within the corporate limits of the city shall pay an annual fee in accordance with the adopted fee schedule. (1993 Code, sec. 156.26; 2006 Code, sec. 18-192; Ordinance 03-12-597, sec. 2, adopted 12/1/03; Ordinance adopting 2015 Code)

ARTICLE 24.08 HOUSING MAINTENANCE AND OCCUPANCY CODE[†]**Division 1. Generally****Sec. 24.08.001 Purpose**

(a) The purpose of this article is to protect, preserve and promote the physical and mental health and social well-being of the people, to prevent and control the incidence of communicable diseases, to reduce environmental hazards to health, to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health, and to protect the safety of the people and to promote the general welfare by legislation which shall be applicable to all dwellings now in existence or hereafter constructed.

* **State law reference**—Sanitation of public swimming pools and bathhouses, V.T.C.A., Health and Safety Code, sec. 341.064.

[†] **State law references**—Municipal regulation of housing and other structures, V.T.C.A., Local Government Code, sec. 214.001 et seq.

(b) It is also the purpose of this article to ensure that the quality of housing is adequate for protection of public health, safety and general welfare, including: establishment of minimum standards for basic equipment and facilities for light, ventilation, and thermal conditions, for safety from fire and accidents, for the use and location and amount of space for human occupancy, and for an adequate level of maintenance; determination of the responsibilities of owners, operators and occupants of dwellings; and provision for the administration and enforcement thereof.

(1984 Code, sec. 7-1-1; 1993 Code, sec. 152.001; 2006 Code, sec. 18-221; Ordinance 114, sec. 2, adopted 5/16/78)

Sec. 24.08.002 Scope

(a) This article shall apply to all zoning districts, land, properties, structures, and buildings within the city, including all vacant, occupied, residential, nonresidential, improved or unimproved land, properties, structures, and buildings.

(b) If other ordinances of the city conflict with this article and the standards and regulations established herein, the stricter standard or regulation shall prevail.

(1984 Code, sec. 7-1-2; 1993 Code, sec. 152.002; 2006 Code, sec. 18-222; Ordinance 114, sec. 3, adopted 5/16/78; Ordinance 417, sec. 3(A), adopted 12/1/97)

Sec. 24.08.003 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:

Appropriate authority. The person within the governmental structure of the corporate unit who is charged with the administration of the appropriate code.

Approved. Approved by the local or state authority having such appropriate authority.

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.

Dilapidated. No longer adequate for the purpose or use for which it was originally intended.

Dormitory. A building or a group of rooms in a building used for institutional living and sleeping purposes by five or more persons.

Dwelling. Any enclosed space wholly or partly used or intended to be used for living, sleeping, cooking and eating; provided that temporary housing as hereinafter defined shall not be classified as a dwelling. Industrialized housing and modular construction which conform to nationally accepted industry standards and used or intended for use for living, sleeping, cooking and eating purposes shall be classified as dwellings.

Dwelling unit. A room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for living, sleeping, cooking and eating purposes.

Egress. An arrangement of exit facilities to assure a safe means of exit from buildings.

Guest. An individual who shares a dwelling unit in a nonpermanent status for not more than 30 days.

Hazardous waste. Toxic, caustic, or flammable materials.

Household. One or more individuals living together in a single dwelling unit and sharing common living, sleeping, cooking and eating facilities.

Lodging house. Any building, or portion thereof, containing not more than five guestrooms which are used by not more than five guests where rent is paid in money, goods, labor or otherwise.

Multiple dwelling. Any dwelling containing more than two dwelling units.

Objectionable, unsightly, or unsanitary matter. Any matter or object which is offensive to ordinary sensitivities of a person, is not conducive to high aesthetic appearance and quality of a home or neighborhood, or is a health or safety hazard or potential health or safety hazard.

Occupant. Any individual, over one year in age, living, sleeping, cooking or eating in or having possession of a dwelling unit or a rooming unit; except that in dwelling units a guest shall not be considered an occupant.

Operator. Any person who has charge, care, control or management of a building, or part thereof, in which dwelling units or rooming units are let.

Owner. Any person claiming the ownership or title of real or personal property, including but not limited to:

- (1) Holder of fee simple title;
- (2) Holder of life estate;
- (3) Holder of a leasehold estate for an initial term of five years or more;
- (4) A buyer in possession, or having right of possession, under a contract or deed;
- (5) A mortgagee, receiver, executor, or trustee in possession or control, or having right of possession or control, of real property; and
- (6) Any agent who is responsible for managing, leasing or operation of property.

Person. Any individual, firm, corporation, association, partnership, cooperative or government agency.

Pool. A permanent swimming pool, spa, hot tub over 18 inches deep if public or semi-public, and three feet deep if private, located at ground level, above ground or below ground, filled or empty.

Premises. A platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure, and includes any such building, accessory structure or other structure thereon.

Proper or properly. As defined and specified herein or, when not so defined or specified, in accordance with the applicable provisions of this code and ordinances of the city.

Rooming house. See “Lodging house.”

Screening wall. Wood, vegetation, or a combination of both, at least six feet in height. The term “screening wall” shall mean:

- (1) A solid, opaque screening fence or wall at least six feet in height;
- (2) Vegetation consisting of solid hedgerow or evergreen shrubs, or trees and shrubs, providing full screening from the ground to a minimum of six feet;
- (3) Any combination of the above; or

- (4) Any other form of compatible and appropriate screening as approved by the city.

Structure. Any residential building, nonresidential building, dwelling, condominium, townhouse, apartment unit, detached garage, shed, awning, fence, screening wall, sign, swimming pool, excavation, or any other edifice, erection or material, or any other improvement placed or located on any property within the city.

Supplied. Paid for, furnished by, provided by, or under the control of the owner, operator or agent.

Temporary housing. Any tent, trailer, mobile home or any other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utility system on the premises for more than 30 consecutive days.

(1984 Code, art. 7-2; 1993 Code, sec. 152.003; 2006 Code, sec. 18-223; Ordinance 114, sec. 4, adopted 5/16/78; Ordinance 417, sec. 3(B)–(H), adopted 12/1/97; Ordinance adopting 2015 Code)

Secs. 24.08.004–24.08.030 Reserved

Division 2. Responsibilities of Owners, Operators and Occupants

Sec. 24.08.031 Applicability

The provisions of this division shall pertain to the responsibilities of owners, operators and occupants of dwellings and dwelling units and their premises. (1984 Code, art. 7-3; 1993 Code, sec. 152.015; 2006 Code, sec. 18-241; Ordinance 114, sec. 5, adopted 5/16/78)

Sec. 24.08.032 Infectious or hazardous waste

No infectious or hazardous wastes shall be deposited at any location within the city regardless of consent of the property owner. Infectious and hazardous household waste shall not be placed in polycarts or at a pickup point. The disposal of infectious or household hazardous waste will be in accordance with the regulations and policies stipulated by the department of state health services and the state commission on environmental quality. (1984 Code, sec. 7-3-11; 1993 Code, sec. 152.024; 2006 Code, sec. 18-250; Ordinance 114, sec. 5(5.11), adopted 5/16/78; Ordinance 417, sec. 3(J), adopted 12/1/97)

Sec. 24.08.033 Vacant buildings

Every vacant dwelling, house, building (residential or commercial) or other similar structure within the corporate limits of the city shall comply with the following requirements: All exterior doors and windows shall be kept in sound working condition and free of broken glass. All exterior doors shall be equipped with a workable locking device and shall be kept securely locked during the period of time said building is vacant. All windows shall be secured by a latch, lock or other means so as to prevent easy entry into said structure by children, vagrants or other unauthorized persons. All exterior walls and roof shall be kept in good repair and free of holes, cracks, defective materials and structural deterioration so as to keep such building from becoming a breeding place for rodents, roaches, and disease-carrying insects. The exterior of said building and the premises thereon shall be kept free of any accumulation of paper, hay, moss, or other flammable or combustible rubbish or waste material of sufficient quantity to constitute a danger to said building or any other building or premises in case such waste material should become ignited. The exterior of the premises shall be kept free of any accumulation of trash, garbage, rubbish or any waste material of such quantity as to constitute an unsanitary condition. Fences shall be maintained in good repair and gates locked at all times. (1984 Code, sec. 7-3-13; 1993 Code, sec. 152.026; 2006 Code, sec. 18-252; Ordinance 114, sec. 5(5.13), adopted 5/16/78; Ordinance 417, sec. 3(K), adopted 12/1/97; Ordinance adopting 2015 Code)

Secs. 24.08.034–24.08.060 Reserved

Division 3. Safe and Sanitary Maintenance of Parts of Dwellings and Dwelling Units**Sec. 24.08.061 Grading, drainage and maintenance of premises**

(a) It shall be unlawful to drain swimming pool backwash onto public or private property. It is also unlawful to drain swimming pool water containing chemicals onto adjacent private or public property, to include alleys. However, those pools built prior to adoption of this section shall maintain a nonconforming status until such time as the Environmental Protection Agency or other federal agency requires enforcement by the city.

(b) It shall be unlawful to impede the flow of water into any gutter or drainage ditch.

(c) If dirt used for fill appears to the enforcement authority to be contaminated, the city may require proof of non-contamination.

(d) The drainage or discharging of pesticides, grease, petroleum products, paints, sewage, septic tank or grease trap waste, cooling towers, etc., and toxic chemicals onto any property, street, alley, or sewer is prohibited.

(1984 Code, sec. 7-7-4; 1993 Code, sec. 152.059; 2006 Code, sec. 18-295; Ordinance 114, sec. 9(9.04), adopted 5/16/78; Ordinance 417, sec. 3(N), adopted 12/1/97; Ordinance adopting 2015 Code)

Sec. 24.08.062 Structures in front yard

Structures such as tree houses, forts, skateboard ramps, etc., shall not be allowed in the front yard. (1984 Code, sec. 7-7-9; 1993 Code, sec. 152.064; 2006 Code, sec. 18-300; Ordinance 114, sec. 9(9.09), adopted 5/16/78; Ordinance 417, sec. 3(P), adopted 12/1/97; Ordinance adopting 2015 Code)

Secs. 24.08.063–24.08.090 Reserved**Division 4. Standards for Rooming Houses, Rooming Units, Dormitories and Dormitory Rooms****Sec. 24.08.091 Compliance**

No person shall operate a rooming house or dormitory, or shall occupy or let to another for occupancy any dormitory room and/or rooming unit in any rooming house or dormitory, which is not in compliance with the appropriate provisions of every section of this division. No owner or other person shall occupy or let to another person any rooming unit or dormitory room unless it is clean and sanitary, and complies with all applicable requirements of the city. (1984 Code, art. 7-9; 1993 Code, sec. 152.095; 2006 Code, sec. 18-351; Ordinance 114, sec. 11, adopted 5/16/78)

Sec. 24.08.092 License for operation of rooming house

No person shall operate a rooming house unless he holds a valid rooming house license issued by the city in the name of the operator and for the specific dwelling or dwelling unit. The operator shall apply to the appropriate authority upon compliance by the operator with the applicable provisions of this article and of any rules and regulations adopted pursuant thereto. This license shall be displayed in a conspicuous place within the rooming house at all times. No such license shall be transferable. Every person holding such a permit shall give notice in writing to the city within 24 hours after having sold, transferred, given away, or otherwise disposed of ownership of, interest in, or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house. Every rooming house license shall expire at the end of one year following its date of issuance, unless sooner suspended or revoked as hereinafter provided. (1984 Code, sec. 7-9-1; 1993 Code, sec. 152.096; 2006 Code, sec. 18-352; Ordinance 114, sec. 11(11.01), adopted 5/16/78)

Sec. 24.08.093 Food and cooking

The following provisions shall apply in all rooming houses and dormitories:

- (1) Cooking in rooms. Cooking in dormitory rooms and rooming units is prohibited.
- (2) Communal cooking and eating. Communal cooking and dining facilities in a rooming house are prohibited, except as approved by the appropriate authority.
- (3) Food service. All food service and dining facilities provided in a rooming house or dormitory for the occupants of the rooming house or dormitory shall comply with applicable food service legislation.

(1984 Code, sec. 7-9-4; 1993 Code, sec. 152.099; 2006 Code, sec. 18-355; Ordinance 114, sec. 11(11.04), adopted 5/16/78)

Sec. 24.08.094 Linen and towels

Unless exempted by the appropriate authority in writing, the operator of every rooming house shall change supplied bed linen and towels therein at least once a week, and prior to the letting of any room to any occupant, and the operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner. (1984 Code, sec. 7-9-6; 1993 Code, sec. 152.101; 2006 Code, sec. 18-357; Ordinance 114, sec. 11(11.06), adopted 5/16/78)

Sec. 24.08.095 Room access

Access to or egress from each rooming unit shall be provided without passing through any other rooming unit. (1984 Code, sec. 7-9-9; 1993 Code, sec. 152.104; 2006 Code, sec. 18-360; Ordinance 114, sec. 11(11.09), adopted 5/16/78)

Sec. 24.08.096 Numbering of units

The owner or operator of a lodging house containing six or more lodging units within such dwelling shall place or cause to be placed a number on the outside of the main door to each unit. The number on the outside of the door to the lodging unit shall correspond to the number for that unit designated on the occupancy record card for that particular lodging house. No two lodging units shall bear the same number. (1984 Code, sec. 7-9-11; 1993 Code, sec. 152.106; 2006 Code, sec. 18-362; Ordinance 114, sec. 11(11.11), adopted 5/16/78)

Secs. 24.08.097–24.08.120 Reserved

Division 5. License for Operation of Multiple Dwelling or Rooming House

Sec. 24.08.121 Required

No person shall operate a multiple dwelling or rooming house unless he holds a current, unrevoked operating license issued by the city in his name or the specific named multiple dwelling or rooming house. (1984 Code, sec. 7-12; 1993 Code, sec. 152.120; 2006 Code, sec. 18-381; Ordinance 114, sec. 14, adopted 5/16/78)

Sec. 24.08.122 Issuance; term

Every operating license shall be issued for a period of one year from its date of issuance unless sooner revoked, and may be renewed for successive periods of not to exceed one year. No operating license shall be issued or renewed unless the applicant owner or operator has first made application therefor and has agreed upon such application to inspection as may be required to determine whether the multiple dwelling or rooming house in connection with which such license is sought is in compliance with the applicable provisions of this article and

with applicable rules and regulations pursuant thereto. (1984 Code, sec. 7-12-1; 1993 Code, sec. 152.121; 2006 Code, sec. 18-382; Ordinance 114, sec. 14(14.01), adopted 5/16/78)

Sec. 24.08.123 Inspection prior to issuance

No operating license shall be issued or renewed unless the multiple dwelling or rooming house in connection with which the license is sought is found after inspection to meet all applicable requirements of this article and applicable rules and regulations pursuant thereto. (1984 Code, sec. 7-12-2; 1993 Code, sec. 152.122; 2006 Code, sec. 18-383; Ordinance 114, sec. 14(14.02), adopted 5/16/78)

Sec. 24.08.124 Fee

No operating license shall be issued or renewed unless the application is accompanied by payment as set forth in the current fee schedule as printed in appendix A to this code. (1984 Code, sec. 7-12-3; 1993 Code, sec. 152.123; 2006 Code, sec. 18-384; Ordinance 114, sec. 14(14.03), adopted 5/16/78)

Sec. 24.08.125 Designation of agent for nonresident applicant

No operating license shall be issued or renewed for a nonresident applicant unless such applicant designates in writing the name of his resident agent for the receipt of service of notice of violation of the provisions of this article and for service of process pursuant to this article. (1984 Code, sec. 7-12-4; 1993 Code, sec. 152.124; 2006 Code, sec. 18-385; Ordinance 114, sec. 14(14.04), adopted 5/16/78)

Sec. 24.08.126 Designation of agent for resident applicant

No operating license shall be issued or renewed for a resident applicant unless such applicant has first designated an agent for the receipt of services of [notices for] violations of the provisions of this article when said applicant is absent from the city for 30 or more days. Such a designation shall be made in writing, and shall accompany each application. The applicant may designate any resident in the city as his agent for this purpose, or may designate the city building official as his agent for this purpose. (1984 Code, sec. 7-12-5; 1993 Code, sec. 152.125; 2006 Code, sec. 18-386; Ordinance 114, sec. 14(14.05), adopted 5/16/78)

Sec. 24.08.127 Renewal

No operating license shall be renewed unless an application therefor has been made within 60 days prior to the expiration of the present operating license. (1984 Code, sec. 7-12-6; 1993 Code, sec. 152.126; 2006 Code, sec. 18-387; Ordinance 114, sec. 14(14.06), adopted 5/16/78)

Sec. 24.08.128 Display

Each operating license shall be displayed in a conspicuous place within the common ways of the multiple dwelling or rooming house. (1984 Code, sec. 7-12-7; 1993 Code, sec. 152.127; 2006 Code, sec. 18-388; Ordinance 114, sec. 14(14.07), adopted 5/16/78)

Sec. 24.08.129 Transfer

No license shall be transferable to any person, or to another multiple dwelling or rooming house. Every person holding an operating license shall give notice in writing to the city building official within 24 hours after having transferred or otherwise disposed of the legal control of any licensed multiple dwelling or rooming house. Such notice shall include the name and address of the person or persons succeeding to the ownership or control of such multiple dwelling or rooming house. (1984 Code, sec. 7-12-8; 1993 Code, sec. 152.128; 2006 Code, sec. 18-389; Ordinance 114, sec. 14(14.08), adopted 5/16/78)

Sec. 24.08.130 Record of repairs

Every owner or operator of a licensed multiple dwelling or rooming house shall keep, or cause to be kept, an accurate record of all repairs, alterations and equipment changes related to the provisions of this article or to any rules and regulations pertaining thereto, and of all corrections made as the result of inspections by the city building official. Such record shall be made available to the city building official by the owner or operator when requested. Every owner or operator subject to this section shall be notified that such record may be used in administrative or judicial proceedings pursuant to the provisions of this article. The administrative authority shall, upon issuance of a license as required in this division, advise the licensee of the necessity for such record and the manner in which such record shall be kept. (1984 Code, sec. 7-12-9; 1993 Code, sec. 152.129; 2006 Code, sec. 18-390; Ordinance 114, sec. 14(14.09), adopted 5/16/78)

Sec. 24.08.131 Notice of violation

Whenever, upon inspection of the licensed multiple dwelling or rooming house, or of the records required to be kept by section 24.08.130, the city building official finds that conditions or practices exist which are in violation of the provisions of this article or of any applicable rules and regulations pursuant thereto, he shall serve the owner or operator with notice of such violation in the manner hereinafter provided. Such notice shall state that, unless the violations cited are corrected within reasonable time, the operating license may be suspended. (1984 Code, sec. 7-12-10; 1993 Code, sec. 152.130; 2006 Code, sec. 18-391; Ordinance 114, sec. 14(14.10), adopted 5/16/78)

Sec. 24.08.132 Suspension

At the end of the time he has allowed for correction of any violation cited, the city building official shall reinspect the multiple dwelling or rooming house, and if he determines that such conditions have not been corrected, he may issue an order suspending the operating license. (1984 Code, sec. 7-12-11; 1993 Code, sec. 152.131; 2006 Code, sec. 18-392; Ordinance 114, sec. 14(14.11), adopted 5/16/78)

Sec. 24.08.133 Revocation

Any person whose license to operate a multiple dwelling or rooming house has been suspended shall be entitled to a consideration of the order by an administrative conference or by an appeal to the housing code appeals board in the manner hereinafter provided by this article. If no request for reconsideration or appeal reaches the city building official within 21 days following the issuance of the order of suspension, the license shall be revoked, except that prior to revocation any person whose license has been suspended may request reinspection, upon a showing that the violation or violations in the notice have been corrected. (1984 Code, sec. 7-2-12; 1993 Code, sec. 152.132; 2006 Code, sec. 18-393; Ordinance 114, sec. 14(14.12), adopted 5/16-1978)

Sec. 24.08.134 Reinstatement of suspended license

If, upon reinspection, the city building official finds that the multiple dwelling or rooming house in connection with which the notice was issued is now in compliance with this article and with applicable rules and regulations issued pursuant thereto, he shall reinstate the license. A request for reinspection shall not extend the suspension period, unless the city building official grants such request. (1984 Code, sec. 7-12-13; 1993 Code, sec. 152.133; 2006 Code, sec. 18-394; Ordinance 114, sec. 14(14.13), adopted 5/16/78)

Secs. 24.08.135–24.08.160 Reserved

Division 6. Inspections**Sec. 24.08.161 Adoption of plans for inspection**

The city manager or his designee shall develop and adopt plans for the inspection of dwelling units subject to the provisions of this article, including the following provisions:

- (1) Multiple dwellings and rooming houses. A plan for the periodic inspection of multiple dwellings and rooming houses subject to the provisions of division 7 of this article, governing the licensing of the operation of such dwelling.
- (2) Dwelling units.
 - (A) A plan for the systematic inspection of dwelling units contained within the city as may from time to time be designated by the city council or the city building official.
 - (B) Before making inspections pursuant to a plan authorized by this section, the city secretary shall advise the public of the plan to inspect.

(1984 Code, secs. 7-10-1, 7-10-2; 1993 Code, sec. 152.145; 2006 Code, sec. 18-411; Ordinance 114, sec. 12, adopted 5/16/78; Ordinance adopting 2015 Code)

Sec. 24.08.162 Authority to enforce and make inspections

The city building official shall enforce the provisions of this article and is hereby authorized and directed to make inspections pursuant to one or more of the plans for inspection authorized by section 24.08.161, or in response to a complaint that an alleged violation of the provisions of this article or of applicable rules and regulations pursuant thereto may exist, or when the city building official has valid reason to believe that a violation of this article or any rules and regulations pursuant thereto has been or is being committed. (1984 Code, sec. 7-11; 1993 Code, sec. 152.146; 2006 Code, sec. 18-412; Ordinance 114, sec. 13, adopted 5/16/78)

Sec. 24.08.163 Reasonable hours of inspection

The city building official is hereby authorized to enter and inspect between the hours of 8:00 a.m. and 5:00 p.m. all dwellings, dwelling units, and rooming houses, rooming units, dormitories and dormitory rooms subject to this article, for the purpose of determining whether there is compliance with its provisions. (1984 Code, sec. 7-11-1; 1993 Code, sec. 152.147; 2006 Code, sec. 18-413; Ordinance 114, sec. 13(13.01), adopted 5/16/78)

Sec. 24.08.164 Inspection of surrounding premises

The city building official is hereby authorized to inspect the premises surrounding dwellings, dwelling units, rooming houses, rooming units, dormitories and dormitory rooms subject to this article, for the purpose of determining whether there is compliance with its provisions. (1984 Code, sec. 7-11-2; 1993 Code, sec. 152.148; 2006 Code, sec. 18-414; Ordinance 114, sec. 13(13.02), adopted 5/16/78)

Sec. 24.08.165 Access by inspector

The owner, occupant or other person in charge of a dwelling, dwelling unit or rooming unit, or of a multiple dwelling or a rooming house, or dormitory room, upon presentation of proper identification by the city building official, a copy of any relevant plan of inspection pursuant to which entry is sought, and a schedule of the specific areas and facilities to be inspected, shall give the city building official entry and free access to every part of the dwelling, dwelling unit, rooming unit, multiple dwelling, rooming house or dormitory room or to the premises surrounding any of these. (1984 Code, sec. 7-11-3; 1993 Code, sec. 152.149; 2006 Code, sec. 18-415; Ordinance 114, sec. 13(13.03), adopted 5/16/78)

Sec. 24.08.166 Denial of free access

If any owner, occupant or other person in charge of a dwelling, dwelling unit or rooming unit or of a multiple dwelling or a rooming house fails or refuses to permit free access and entry to the structure or premises under his control, or any part thereof, with respect to which an inspection authorized by this article is sought to be made, the city building official may, upon a showing that a probable cause exists for the inspection and for the issuance of an order directing compliance with the inspection requirements of this division with respect to such dwelling, dwelling unit, multiple dwelling or rooming house, petition and obtain such order from the municipal court of the city. (1984 Code, sec. 7-11-4; 1993 Code, sec. 152.150; 2006 Code, sec. 18-416; Ordinance 114, sec. 13(13.04), adopted 5/16/78)

Sec. 24.08.167 Confidentiality of evidence

The city building official shall keep confidential all evidence, exclusive of the inspection record, which may be discovered or obtained in the course of an inspection made pursuant to this division, and such evidence shall be considered privileged. (1984 Code, sec. 7-11-5; 1993 Code, sec. 152.151; 2006 Code, sec. 18-417; Ordinance 114, sec. 13(13.05), adopted 5/16/78)

Secs. 24.08.168–24.08.190 Reserved**Division 7. Administration and Enforcement****Sec. 24.08.191 Authority to administer**

The city building official is hereby authorized to make, adopt, revise and amend procedures as he deems necessary to administer the purposes of this article. (1984 Code, sec. 7-13; 1993 Code, sec. 152.185; 2006 Code, sec. 18-471; Ordinance 114, sec. 15, adopted 5/16/78)

Sec. 24.08.192 Notice of violation

The city building official is hereby authorized to issue a notice of violation in the manner defined by this section when said official determines that a violation of this article or rules and regulations pursuant thereto, has occurred.

- (1) Written notification. Whenever the city building official determines that any dwelling, dwelling unit, or rooming unit, or the premises surrounding any of these, fails to meet the requirements set forth in this article or in applicable rules and regulations issued pursuant thereto, the person responsible under the provisions of this section for such violation shall be given written notification of the nature of the violation and the date on which a reinspection will be made to determine if the violation has been eliminated. The person responsible for the violation shall be given a reasonable time of at least 30 days to eliminate the violation.
- (2) Method of serving notice. The written notice of violation shall be served upon the owner, occupant, operator or agent of the dwelling, dwelling unit or rooming unit personally, or by registered mail, return receipt requested, addressed to the owner, occupant, operator or agent. If one or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such persons by posting the notice in or about the dwelling, dwelling unit or rooming unit described in the notice; or by causing such notice to be published in a newspaper of general circulation for a period of three consecutive days; or by serving such notice upon a resident agent for the receipt of such notice designated pursuant to section 24.08.126; or by serving such notice upon the city building official where he has been designated agent for such service pursuant to section 24.08.126.
- (3) Reinspection. The city building official shall make a reinspection of property declared in violation of the minimum housing code at the owner's request or at any time not less than 30 days from the date of notice. If such property has not been made to conform, the city building official shall cause

said violations of this code to be placed on the next succeeding agenda of the housing code appeals board which shall allow the person or persons entitled to notice at least 15 days' notice of the hearing.

- (4) Extension of time. Any person receiving written notification of a violation of this article may request an extension of time to eliminate the violation prior to a reinspection and such requests for extensions of time may be approved where reasonable.

(1984 Code, art. 7-14, secs. 7-14-1–7-14-4; 1993 Code, sec. 152.186; 2006 Code, sec. 18-472; Ordinance 114, sec. 16, adopted 5/16/78)

Sec. 24.08.193 Emergency conditions

Whenever, in the judgment of the city building official, a violation of this article results in an emergency condition which requires immediate action to protect the public health, safety, or welfare, the city building official is hereby authorized to order the immediate evacuation of the property or to direct the owner, occupant, operator, or agent to take such action as is appropriate to correct or abate the emergency. Such order or direction shall be made without a hearing or appeal. Property evacuated by such order shall remain vacated until the danger as determined by the city building official has been eliminated. Such violation and order shall be placed on the next succeeding agenda of the housing code appeals board. (1984 Code, art. 7-15; 1993 Code, sec. 152.187; 2006 Code, sec. 18-473; Ordinance 114, sec. 17, adopted 5/16/78)

ARTICLE 24.09 SUBSTANDARD BUILDINGS AND STRUCTURES*

Sec. 24.09.001 Adoption of chapter 214, subchapter A, Local Government Code

The city hereby adopts V.T.C.A. Local Government Code ch. 214, subch. A, as amended, and the following minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; the following provisions for giving proper notice to the owner of a building; and the following provisions for a public hearing to determine compliance of real property, buildings, structures, premises and vacant lots. In the event that any provisions of this article conflict with said V.T.C.A. Local Government Code ch. 214, subch. A, or in the event that any of the provisions of said V.T.C.A. Local Government Code ch. 214, subch. A have been omitted from this article, the city shall be entitled to pursue its remedies in conformity with said state law, as hereafter amended. (2006 Code, sec. 18-525; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.002 Applicability of building code

All buildings or structures which are required to be repaired under provisions of this article shall be subject to all applicable sections of the building code, as amended, and as adopted by the city council. (2006 Code, sec. 18-526; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.003 Declaration of public nuisance

Any real property, building, structure, or any portion thereof, or any premises, including a vacant lot, in or on which there exists a condition not in compliance with this article shall be deemed and is hereby declared to be a public nuisance, a violation of this article and subject to the penalty clauses and remedies available to the city hereunder and under the common law or equity jurisprudence of the state. (2006 Code, sec. 18-527; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

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

Sec. 24.09.004 Definitions

Terms, words, phrases and their derivatives used, but not specifically defined, in this article shall have the meanings defined in Webster's New Collegiate Dictionary. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. For purposes of this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Enforcement officer. The chief of police, code enforcement officer, health officer or their designated representatives, charged with any enforcement and administration of this article.

Inspection. The examination of property by the enforcement officer or his authorized representative for the purpose of evaluating its condition as provided for in this article.

Owner. Any person, agent, firm, corporation, association or other entity having legal or equitable interest in a property as shown on the most recent tax roll.

Person. Any person, agent, firm, corporation, association or tenant.

Public nuisance. Any act, condition or thing existing, done or in being, which act, condition or thing endangers the peace, property, health, and safety of the citizens of the city.

Tenant. Any person, agent, firm, corporation, or association who occupies a property or premises and who is not the owner.

(2006 Code, sec. 18-528; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.005 Specific nuisances

Without limiting the power of the city council to hereafter declare as public nuisances any other act, condition, or thing, by ordinance, the following specific acts, conditions, and things, each and all of them, are hereby declared to be and constitute public nuisances:

- (1) Any building, structure, or any portion thereof that is:
 - (A) Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;
 - (B) 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
 - (C) Boarded up, fenced or otherwise secured in any manner if:
 - (i) The building constitutes a danger to the public even though secured from entry; or
 - (ii) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building.

- (2) Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants is endangered:
- (A) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
 - (B) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
 - (C) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.
 - (D) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such a catastrophe and is less than the minimum requirements of the building code for new buildings of similar structure, purpose or location.
 - (E) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
 - (F) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof, is not of sufficient strength or stability, or is not so anchored, attached or fastened in place, so as to be capable of resisting a wind pressure of one-half of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.
 - (G) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to wind or earthquakes than is required in the case of similar new construction.
 - (H) Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay, (ii) faulty construction, (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building, (iv) the deterioration, decay or inadequacy of its foundation, or (v) any other cause, is likely to partially or completely collapse.
 - (I) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
 - (J) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
 - (K) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
 - (L) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated, as to become:
 - (i) An attractive nuisance to children;

- (ii) A harbor for vagrants, criminals or immoral persons; or
- (iii) As to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
- (M) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the building code or housing code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
- (N) Whenever any building or structure, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent, of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
- (O) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- (P) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
- (Q) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
- (R) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
- (S) Whenever any minimum standards provided by the housing code, building code, property maintenance code, or the International fire, mechanical, plumbing, or electrical codes, as amended, and as adopted by the city council, are not met for any building or structure.

(2006 Code, sec. 18-529; Ordinance 07-02-713, sec. 2, adopted 2/5/07; Ordinance adopting 2015 Code)

Sec. 24.09.006 Minimum standards

(a) The minimum standards for the continued use and occupancy of all buildings, regardless of the date of construction thereof, shall be those established by the Uniform Housing Code, which standards are hereby adopted, as well as those standards established by the International Building Code as promulgated by the International Code Council as heretofore previously adopted or hereafter adopted or amended by the city, and those standards established by this article.

(b) Those specified and enumerated in section 24.09.005.

(2006 Code, sec. 18-530; Ordinance 07-02-713, sec. 2, adopted 2/5/07; Ordinance adopting 2015 Code)

Sec. 24.09.007 Notice to property owners and others of public hearing

(a) If the building official determines that the nuisance requires the vacation, securing, repair, or removal of a building, structure, or nuisance condition on the property, or the relocation of the occupants of the property, the building official shall:

- (1) Give notice of the nuisance to the owner of the property as well as any one (1) known tenant or occupant, by personal service or by certified mail (with a duplicate copy addressed to such owner, tenant or occupant as shown in the most recent tax roll or utility records of the city and deposited in the U.S. mail, postage paid);
- (2) Provide detail in such notice of the standard(s) violated under this article and the necessary action to abate the nuisance; a copy of the building official's report is sufficient for this purpose;
- (3) Advise such owner, tenant or occupant of the date and time of the public hearing at which a determination will be made by city council as to whether the nuisance exists and whether the real property, building, structure, premises or any portion thereof complies with the standards of this article;
- (4) Include a statement in such notice 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 reasonably perform the work; and
- (5) Provide a copy of such notice of nuisance, details thereof, the required action necessary to abate the nuisance, and the date and time of the public hearing to any mortgagee or lienholder of record after a diligent effort to discover such mortgage or lienholder.

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

(c) The city satisfies the requirements of this article to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the city searches the following records:

- (1) Collin County real property records;
- (2) Collin County appraisal district records;
- (3) Records of the secretary of state;
- (4) Assumed name records of Collin County;
- (5) Tax records of the city; and
- (6) Utility records of the city.

(2006 Code, sec. 18-531; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.008 Date of public hearing

The date of the public hearing before the city council shall not be less than 30 days from the date of personal service or deposit of the same in the U.S. mail, whichever is earliest. (2006 Code, sec. 18-532; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.009 Filing of notice in public records

The city secretary shall file a notice of the public hearing in the county real property records within ten days of the date of hearing. The notice must contain the name and address of the owner of the affected real property, if that information can be determined from a reasonable search of the instruments on file with the county clerk; a legal description of the property; and a description of the hearing. (2006 Code, sec. 18-533; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.010 Effect of filing of notice in public records

The filing of the notice under section 24.09.009 shall be binding upon subsequent grantees, lienholders, or other transferees of any interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice. (2006 Code, sec. 18-534; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.011 Conduct of public hearing

The city council shall conduct the public hearing to determine compliance with the standards set out in this article. At the public hearing, the owner, lienholder or mortgagee shall have the burden of proof to demonstrate the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work. (2006 Code, sec. 18-535; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.012 Orders and notice after public hearing

(a) After a public hearing, if the city council finds that a nuisance exists pursuant to this article, the city council shall require the owner, lienholder, or mortgagee of the real property, building, structure or premises to within 30 days:

- (1) Secure the offending building or structure from unauthorized entry; or
- (2) Abate the nuisance or repair, remove or demolish the building unless the owner, mortgagee or lienholder establishes at the hearing that the work cannot reasonably be performed within the 30 days allowed. The city 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.

(b) After the public hearing, if a building, structure or premises is found in violation of the standards set forth in this article, the city council may order that the building, structure, or premises be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this section. The city council also may order that the occupants be relocated within a reasonable time, at the cost of the owner. The city council reserves the right to determine what is a reasonable amount of time to perform the ordered work or what is a reasonable amount of time to relocate occupants. In the event the owner fails to comply with the order within the time provided for action by the owner, the city council may order any of the mortgagees or lienholders of the building, structure, or premises to cause the building or structure to be vacated, secured, repaired, removed, or demolished by any of the mortgagees or lienholders within a reasonable time as provided by this section. The city council also may order that the occupants be relocated within a reasonable time, at the cost of any of the mortgagees or lienholders. Under this section, the city is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

(c) After a public hearing, if the owner, lienholder or mortgagee establishes at the hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work, and if the owner, lienholder or mortgagee has submitted at the hearing a detailed plan and time schedule, and the city council allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to abate the nuisance or repair, remove or demolish the building or structure, the city council shall require the owner, lienholder or mortgagee to regularly submit progress reports to the city council through the building official to demonstrate compliance with time schedules for commencement and performance of the work and

may require appearance before the building official, the city council, or their designees to demonstrate compliance. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the city boundaries that exceeds \$100,000.00 in total value, the city council may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, city council may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the city council. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the city issues the order.

(d) Within ten days after the date that the order is issued, the city secretary shall:

- (1) File a copy of the order in the city secretary's office; and
- (2) Publish in a newspaper of general circulation in the city 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.

(e) After the public hearing, the city secretary shall promptly mail by certified mail, return receipt requested, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The city shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.

(f) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated, within the allotted time, the city may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This subsection does not limit the ability of the city to collect on a bond or other financial guaranty that may be required by subsection (c) of this section.

(2006 Code, sec. 18-536; Ordinance 07-02-713, sec. 2, adopted 2/5/07; Ordinance adopting 2015 Code)

Sec. 24.09.013 Standards for ordering repair, vacation or demolition

The following standards shall be followed by the city council in ordering the repair, vacation or demolition of any building, structure, or premises, and any building, structure, or premises declared a nuisance under this article shall be made to comply with one or more of the following:

- (1) The building, structure, or premises shall be repaired in accordance with the current building code or other current codes applicable to the type of substandard conditions requiring repair.
- (2) Repairs shall be deemed feasible only if less than 50 percent of the building or structure must be repaired or replaced, and the repairs amount to less than 50 percent of the building or structure's value.
- (3) If the building or structure is in such a condition as to make it dangerous to the health, safety and welfare of the occupants, it shall be ordered vacated and secured from unlawful entry.
- (4) If the building or structure requires repairs over greater than 50 percent of its surface or amounting to greater than 50 percent of its value, it shall be demolished. Further, if a building cannot be repaired so that it will be brought into compliance with this article, it shall be demolished. Additionally, if the building as it stands presents an incurable fire hazard in violation of the terms of this article or any ordinance of the city or statute of the state, it shall be demolished. For the

purpose of this article, the term “demolished” includes the cleaning and grading of the property and the removal of all debris and trash.

- (5) If the building or structure is not vacated, secured, repaired, removed or demolished, or the occupants are not relocated within the allotted time, the city may vacate, secure, remove or demolish the building or structure or relocate the occupants at its own expense, and may thereafter assess expenses, and establish a lien, against the property, as set forth in section 24.09.019.
- (6) If, after the expiration of the time allotted under section 24.09.012, the owner, lienholder or mortgagee fails to comply, the city may do or cause to be done the repairs necessary to bring the building into compliance with this article and only if the building is a residential building with ten or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds the minimum standards, as defined by this article, and expenses may be assessed as provided in section 24.09.019.

(2006 Code, sec. 18-537; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.014 Designation of enforcement officers

The chief of police, the health officer and/or the chief code enforcement officer or their designated representatives are hereby directed and authorized to administer and enforce the provisions of this article. Nothing contained herein is meant to limit discretion of any enforcement officer in evaluating and directing compliance with this article. (2006 Code, sec. 18-538; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.015 Liability of enforcement officers

The chief of police, the health officer, the chief code enforcement officer, or their authorized representatives, acting in good faith and without malice in the discharge of their duties, shall not thereby render themselves personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of his duties. Any suit brought against the chief of police, health officer, chief code enforcement officer, or their authorized representatives, because of such act or omission performed in the enforcement of any provision of this article, shall be defended by legal counsel provided by the city until final termination of such proceedings. (2006 Code, sec. 18-539; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.016 Abatement of immediate threats to health and safety

Nothing in this article shall prohibit the requirement for abatement within 24 hours, or a period of time less than as prescribed herein for public hearings, notice thereof, or the recovery of costs and establishment of liens, when a nuisance has been declared an immediate threat to health and safety by any enforcement personnel. (2006 Code, sec. 18-540; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.017 Remedies

To enforce any requirement of this article, any enforcement personnel may gain compliance by any or all of the following:

- (1) Taking such action as the enforcement officer deems appropriate within the authorization provided for in this article or any other ordinances of the city.
- (2) Causing appropriate action to be instituted in a court of competent jurisdiction.
- (3) Ordering the abatement of the nuisance and assessing the costs of abatement against the property if the owner of the property does not abate same after the required notice.

- (4) Any other remedies permitted by law or equity.

(2006 Code, sec. 18-541; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.018 Contracting for abatement authorized

Whenever the property owner, agent, or tenant fails to abate the nuisance within the time allowed, the enforcement officer is hereby authorized to contract with a contractor to perform such work as may be required to abate the nuisance. (2006 Code, sec. 18-542; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.019 Recovery of city's costs

(a) Whenever the city enters upon the premises and causes any work to be performed to abate a nuisance, or if the building or structure is not vacated, secured, repaired, removed, or demolished, or if the occupants are not relocated, within the allotted time, the city may take such action at its own expense, and a charge will be made to the property owner, agent, or tenant to recover the costs associated with the abatement. The charge shall be the actual cost of abatement, plus applicable sales taxes.

(b) An administrative fee as established in the adopted fee schedule shall be assessed for each such charge.

(c) If the actual charge and the administrative fee is not paid to the city within 30 days after billing, the city shall file a lien against the property. Said lien shall be filed in the deed records of the county. The charges shown on the lien shall bear interest at the rate of eight percent per annum from the due date until paid. The lien shall be collected under the same terms and provisions of law as on city ad valorem taxes. The lien may be extinguished prior to foreclosure if the owner or other person having an interest in the legal title to the property reimburses the city for its expenses. If the notice is given pursuant to section 24.09.007, and the opportunity to abate the nuisance or repair, remove, or demolish the building or structure is afforded to each mortgagee or lienholder under said section 24.09.007, the lien is a privileged lien subordinate only to tax liens as authorized by V.T.C.A. Local Government Code sec. 214.001(o).

(2006 Code, sec. 18-543; Ordinance 07-02-713, sec. 2, adopted 2/5/07; Ordinance adopting 2015 Code)

Sec. 24.09.020 Penalty

(a) Any person violating or failing to comply with any provision, requirement or order issued pursuant to this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined as provided in section 1.01.009 of this code. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.

(b) In addition to any other remedies or penalties contained in this section, the city may enforce the provisions of this article pursuant to the applicable provisions of V.T.C.A. Local Government Code ch. 54, which chapter provides for the enforcement of municipal ordinances.

(c) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this article.

(2006 Code, sec. 18-544; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.021 Judicial review

Any owner, lienholder, or mortgagee aggrieved by an order of this city council issued under this article shall be entitled to review by a district court pursuant to V.T.C.A. Local Government Code sec. 214.0012, as amended, and the city shall be entitled to an award of fees, costs and expenses, and judgment therefor, pursuant to V.T.C.A. Local Government Code sec. 214.0012(h). (2006 Code, sec. 18-545; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. 24.09.022 Municipal court proceedings not affected

Action taken by the city pursuant to this article shall not affect the ability of the city to proceed under the jurisdiction of the city's municipal court. (2006 Code, sec. 18-546; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

ARTICLE 24.10 FLOOD DAMAGE PREVENTION***Division 1. Generally****Sec. 24.10.001 Statutory authorization**

The legislature of the state has, in the Flood Control Insurance Act, V.T.C.A., Water Code sec. 16.315, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city does ordain as follows. (2006 Code, sec. 38-1; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.002 Findings of fact

(a) The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(2006 Code, sec. 38-2; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.003 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 floodprone areas in such a manner as to minimize future flood blight areas; and

* **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.

- (7) Insure that potential buyers are notified that property is in a flood area.

(2006 Code, sec. 38-3; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.004 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.

(2006 Code, sec. 38-4; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.005 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. 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. 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. 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. The land area that would be inundated by the one-percent annual chance (100-year) flood based on future conditions hydrology.

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

Area of special flood hazard. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, zone A usually is refined into zone 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. The flood having a one 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 zone A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one percent chance of equaling or exceeding that level in any given year, also called the base flood.

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

Breakaway wall. 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. 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. Any man-made 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. 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. 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. 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. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

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

Flood elevation study. 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). 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.”

Floodplain or floodprone area. Any land area susceptible to being inundated by water from any source (see definition of “flooding”).

Floodplain management. 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. 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.

Flood protection system. 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.

Floodproofing. 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. 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 ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

Historic structure. 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. A man-made 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. 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. The lowest floor of the lowest enclosed area (including basement). An unfinished or 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. 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. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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.

(2006 Code, ch. 38, art. II; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.006 Lands to which this article applies

This article shall apply to all areas of special flood hazard within the jurisdiction of the city. (2006 Code, sec. 38-27; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.007 Basis for establishing 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 Collin County, Texas and Incorporated Areas,” dated June 2, 2009, with accompanying flood insurance rate maps dated June 2, 2009, and any revisions thereto, are hereby adopted by reference and declared to be a part of this article. (2006 Code, sec. 38-28; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.008 Establishment of development permit

A floodplain development permit shall be required to ensure conformance with the provisions of this article. (2006 Code, sec. 38-29; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.009 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. (2006 Code, sec. 38-30; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.010 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. (2006 Code, sec. 38-31; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.011 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.

(2006 Code, sec. 38-32; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.012 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 man-made 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. (2006 Code, sec. 38-33; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Secs. 24.10.013–24.10.040 Reserved**Division 2. Administration****Sec. 24.10.041 Designation of the floodplain administrator; applicability of National Flood Insurance Program regulations**

The city engineer or designee determined by the city manager 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. 44 CFR and any amendments thereto are incorporated herein by reference. If any conflict should arise between this article and 44 CFR, the provision that imposes the more stringent restriction(s) shall prevail. This article's express reference to any part of 44 CFR, and its inclusion of any provisions that track the language or are similar to any part of 44 CFR, are intended to be minimum requirements and shall not be interpreted to exclude application of 44 CFR sections that are not expressly referenced or included herein. (2006 Code, sec. 38-51; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.042 Duties and responsibilities of 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 state water development board (TWDB), and also the state 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. With respect to a watercourse (or any part of a watercourse) that constitutes a regulatory floodway, the floodplain administrator is authorized to assure that the flood-carrying capacity is maintained by denying a permit application unless the applicant first requests FEMA's comments on whether a proposed project, if built as proposed, would justify a map revision, in accordance with 44 CFR chapter 1, section 65.8. The applicant must submit the request for FEMA's comments by notifying the floodplain administrator of the intent to do so, and excluding [executing] all documents, if any, provided by the floodplain administrator for that purpose. Further, the request must be accompanied by a revised hydrologic analysis and hydraulic analysis, with an elevation of the same recurrence interval(s) studied in the effective flood insurance study. Unless the applicant can furnish the floodplain administrator with FEMA's written decision to the contrary, all new analyses required under this subsection shall be made using the same hydrologic and hydraulic computer model(s) used to develop the base flood elevations shown on the effective flood insurance rate map and updated to show present conditions in the floodplain and floodway. Copies of the input and output data from the original and revised hydraulic analyses shall also be submitted to FEMA.
- (8) When base flood elevation data has not been provided in accordance with section 24.10.007, 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 division 3 of this article.
- (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 one foot, provided that the community first completes all of the provisions required by section 65.12.

(2006 Code, sec. 38-52; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.043 Permit procedures

(a) 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:

- (1) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
- (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 24.10.072(2);
- (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
- (5) Maintain a record of all such information in accordance with section 24.10.042(1).

(b) 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:

- (1) The danger to life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The danger that materials may be swept onto other lands to the injury of others;
- (4) The compatibility of the proposed use with existing and anticipated development;
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (8) The necessity to the facility of a waterfront location, where applicable;
- (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(2006 Code, sec. 38-53; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.044 Variance procedures

- (a) The board of adjustments shall serve as the appeal board and shall hear and render judgment on requests for variances from the requirements of this article.
- (b) The appeal board 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.
- (c) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- (d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this article.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 24.10.043(b) of this article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted above and the intent of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (section 24.10.003).
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (j) Prerequisites for granting variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall only be issued upon:
 - (A) Showing a good and sufficient cause;
 - (B) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (3) Any applicant to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (1) The criteria outlined in subsections (a) through (i) of this section are met; and
- (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(2006 Code, sec. 38-54; Ordinance 09-05-794, sec. 1, adopted 5/4/09; Ordinance adopting 2015 Code)

Secs. 24.10.045–24.10.070 Reserved

Division 3. Flood Hazard Reduction Standards

Sec. 24.10.071 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.

(2006 Code, sec. 38-71; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.072 Specific standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 24.10.007, section 24.10.042(8), or section 24.10.073(c), the following provisions are required:

- (1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to two feet 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 24.10.043(a)(1), is satisfied.

- (2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to two feet above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.
- (3) Enclosures. New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (A) A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (B) The bottom of all openings shall be no higher than one foot above grade.
 - (C) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) Manufactured homes.
 - (A) Require that all manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 - (B) Require that manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites (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 two (2) feet 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 with 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 two feet 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 24.10.043(a) and the elevation and anchoring requirements for "manufactured homes" in subsection (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(2006 Code, sec. 38-72; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.073 Standards for subdivision proposals

- (a) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with sections 24.10.002, 24.10.003, and 24.10.004 of this article.
- (b) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of sections 24.10.008 and 24.10.043 and the provisions of this division.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 24.10.007 or section 24.10.042(8) of this article.
- (d) Base flood elevation data shall be generated by a detailed engineering study for all zone A areas, within 100 feet of the contour lines of zone A areas, and other streams not mapped by FEMA, as indicated on the community's FIRM.
- (e) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- (f) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(2006 Code, sec. 38-73; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.074 Standards for areas of shallow flooding (AO/AH zones)

Located within the areas of special flood hazard established in section 24.10.007 are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to two feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

- (2) All new construction and substantial improvements of nonresidential structures:
 - (A) Have the lowest floor (including basement) elevated to two feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (B) Together with attendant utility and sanitary facilities 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 section, as proposed in section 24.10.043, are satisfied.
- (4) Require within zone AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

(2006 Code, sec. 38-74; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

Sec. 24.10.075 Floodways

Located within areas of special flood hazard established in section 24.10.007 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. If the floodway in which an encroachment is located or proposed to be located is one with established base flood elevations as set forth in the effective flood insurance study, then "standard engineering practice" is defined to mean, at a minimum, that a request is made for FEMA's comments on whether the encroachment, or proposed encroachment, would justify a map revision, in accordance with 44 CFR chapter 1, section 65.8. The applicant must submit the request for FEMA's comments by notifying the floodplain administrator of the intent to do so, and executing all documents, if any, provided by the floodplain administrator for that purpose. Further, the request must be accompanied by a revised hydrologic analysis and hydraulic analysis, with an evaluation of the same recurrence interval(s) studied in the effective flood insurance study. In addition, unless the applicant can furnish the floodplain administrator with FEMA's written decision to the contrary, all new analyses required under this subsection shall be made using the same hydrologic and hydraulic computer model(s) used to develop the base flood elevations shown on the effective flood insurance rate map and updated to show present conditions in the floodplain and floodway. Copies of the input and output data from the original and revised hydraulic analyses shall also be submitted to FEMA.
- (2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.
- (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.

(2006 Code, sec. 38-75; Ordinance 09-05-794, sec. 1, adopted 5/4/09)

CHAPTER 25

RESERVED

CHAPTER 26

DEVELOPMENT STANDARDS

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ARTICLE 26.01 GENERAL PROVISIONS**Sec. 26.01.001 Penalty**

Any person, firm, or corporation violating any of the provisions or terms of this chapter shall be guilty of a misdemeanor and upon conviction, shall be fined a sum not to exceed \$500.00 for each offense, and each and every violation or day such violation shall continue or exist shall be deemed a separate offense. (2006 Code, sec. 28-35; Ordinance 09-05-797, sec. 3, adopted 5/18/09)

ARTICLE 26.02 SIGNS***Sec. 26.02.001 Purpose**

Signs use private land and the sight lines created by the public rights-of-way to inform and persuade the general public by publishing a message. This article provides standards for the erection and maintenance of private signs. All private signs not exempted as provided below shall be erected and maintained in accordance with these standards. The general objectives of these standards are to promote health, safety, welfare, convenience and enjoyment of the public, and, in part, to achieve the following:

- (1) Safety. To promote the safety of persons and property by providing that signs:
 - (A) Do not create a hazard due to collapse, fire, collision, decay or abandonment;
 - (B) Do not obstruct firefighting or police surveillance; and
 - (C) Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles or other vehicles, or to read traffic signs.
- (2) Communications efficiency. To promote the efficient transfer of information in sign messages by providing that:
 - (A) Businesses and services may identify themselves;
 - (B) Customers and other persons may locate a business or service;
 - (C) No person or group is arbitrarily denied the use of the sight lines from the public right-of-way for communication purposes; and
 - (D) Persons exposed to signs are not overwhelmed by the number of messages presented, and are able to exercise freedom of choice to observe or ignore said messages, according to the observer's purpose.
- (3) Landscape quality and preservation. To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:
 - (A) Do not interfere with scenic views;
 - (B) Do not create a nuisance to persons using the public rights-of-way;
 - (C) Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height or movement;
 - (D) Are not detrimental to land or property values; and

* **State law reference**—Municipal regulation of signs, V.T.C.A., Local Government Code, sec. 216.001 et seq.

- (E) Contribute to the special character of particular areas or districts within the city, helping the observer to understand the city and orient oneself within it.

(2006 Code, sec. 28-1; Ordinance 09-05-797, sec. 2 (art. I, sec. 1), adopted 5/18/09)

Sec. 26.02.002 Definitions

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section. Terms not defined herein shall have the meaning assigned to them in the building code. Terms not defined herein or in the building code shall have the meaning customarily assigned to them by the dictionary.

Activity. Any person, business, organization or other entity.

Awning. A roof-like structure, temporary in nature, which is not an integral structural part of and is accessory to the building which it serves and is retractable, collapsible or capable of being folded.

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

Canopy. A projecting roof-like covering which is a permanent and integral part of the building's structure.

Changeable electronic variable message sign (CEVMS). A sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color. A CEVMS does not include a sign located within a right-of-way that functions as a traffic-control device and/or that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) approved by the General Highway Administrator as the national standard.

Character. Any letter of the alphabet or any numeral.

Commission. The plan commission of the city.

Expressway. Any public right-of-way designated as an expressway or freeway by the ordinances or resolutions of the city, as amended.

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, shall be measured as the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and the average grade within five feet of any part of the sign.

Intersection. The junctions of the centerlines of any two public rights-of-way, other than alleyways, crossing at grade, or, where the crossing is separated at grade, the intersection shall be the point at which expressway travel pavements converge or diverge, or the point at which any expressway interchange ramp intersects the expressway travel pavement.

Luminance. The brightness of a sign or a portion thereof expressed in terms of footcandles. For the purpose of this article, luminance shall be determined by the use of an exposure meter calibrated to standards established by the National Bureau of Standards and equipped with a footcandles scale.

Occupancy. The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

Parapet. A low wall or railing which protects the edge of a roof, porch or terrace.

Roofline. The ridge line or the highest portion which is the highest part of a roof.

Setback. The required distance between any point on private land and the nearest point at the edge of the nearest public right-of-way, other than an alley. Where a public way crosses a railroad right-of-way, the setback distance is to be measured from the public right-of-way line extended across the railroad right-of-way.

Sign. Any device, flag, light, figure, mural, painting, picture, letter, word, message, symbol, plaque or poster visible from outside the site on which it is located and designed to inform or attract the attention of persons not on that premises, excluding those lights and landscape features which display no words or symbols, and temporary holiday decorations.

Sign area. For freestanding signs, means the area enclosed by the minimum imaginary rectangle of vertical and horizontal lines which fully contains all extremities of the sign, exclusive of its supports. This rectangle is to be calculated from an orthographic projection of the sign viewed horizontally. A viewpoint for this projection is to be taken which gives the largest rectangle of that kind, as the viewpoint is rotated horizontally around the sign. If elements of the sign are movable or flexible, such as a flag or string of lights, the measurement shall be taken when the elements are fully extended and parallel to the plane of view. The sign area for attached signs shall mean the sum of the areas of the minimum imaginary rectangles enclosing each word attached to any particular facade. This definition shall also apply to signs which are composed solely of words which identify the premises and which are attached to freestanding walls not over six feet in height.

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 band. An architectural element expressly designed to accommodate attached signs on a building.

Sign copy. See definition of “sign.”

Sign, directional. An off-premises sign the content of which is limited exclusively to the identification of a specific site, activity or occupancy located elsewhere, and which tells the location of or route to that site, activity or occupancy.

Sign, freestanding. Any detached sign connected to the ground which is not an attached, portable or vehicular sign.

Sign, illegal. Any sign that was erected in violation of any sign regulation applicable at the time of erection of such sign. Any sign which does not comply with the provisions of this article, or which is not deemed as a nonconforming sign by the building official, shall be considered an illegal sign.

Sign, illuminated. Any sign which is directly lighted by any electrical light source, internal or external. This definition shall not include signs which are illuminated by streetlights or other light sources owned by any public agency or light sources which are specifically operated for the purpose of lighting the area in which the sign is located rather than the sign itself.

Sign, kiosk. A freestanding sign located within any public right-of-way that features a city identification panel at the top of each structure and displays directional information to subdivisions, homebuilders, new homes and municipal facilities and parks.

Sign, marquee. Any sign which has interchangeable letters (plastic, metal, magnetic, etc.) and these individual letters are changed manually. This definition also includes signs that flash, change illumination or copy, rotate, move or create an illusion of movement.

Sign, monument. Any permanent low-profile sign built on a monument base, solid from the ground up, which has no clear space for the full width of the sign between the bottom of the sign and the ground and is not an attached, portable or vehicular sign. Pole(s) or support(s) must be concealed.

Sign, movement control. A sign which directs vehicular or pedestrian movement within or onto the premises on which the movement control sign is located.

Sign, nonconforming. Any sign erected legally and in compliance with all sign regulations applicable at the time of erection, but which does not comply with the provisions of this article. It shall be the burden of the owner of a nonconforming sign to prove that the sign was erected legally and in compliance with all sign regulations applicable at the time of its erection.

Sign, off-premises. Any sign which is not an on-premises sign.

Sign, on-premises. Any sign, the content of which relates to the site on which it is located, referring exclusively to the name, location, products, persons, accommodations, services or activities of or on those sites, or the sale, lease or construction of those sites.

Sign, pole. A permanent freestanding pole sign, utilizing either a monopole or dual pole design.

Sign, political. Any type of non-premise [on-premises] sign which refers only to the issues or candidates involved in a political election.

Sign, portable. A sign which is easily moved from one location to another, including signs which are mounted on skids, trailers, wheels, legs or stakes and which are not fixed permanently to the ground, and which is not an attached sign, political sign, vehicular sign or a sign which refers solely to the sale or lease of the premises.

Sign, projecting. Any attached sign, other than an awning or canopy, which projects perpendicular from a building and which has one end attached to the building.

Sign, protective. Any sign which is commonly associated with safeguarding the permitted uses of the occupancy, including, but not limited to, "Bad Dog," "No Trespassing," and "No Solicitors."

Sign, special-purpose. A sign temporarily supplementing the permanent signs on a site.

Sign, temporary. Any sign that is used only temporarily and is not permanently mounted or affixed to any structure or to the ground.

Sign, vehicular. Any sign on a vehicle moving along the ground or on any vehicle parked temporarily, incidental to its principal use for transportation. This definition shall not include signs which are being transported to a site of permanent erection, bumper stickers, magnetic signs not to exceed four square feet, any signs attached to or painted onto a personal vehicle which exceed four square feet, taxicab signs, or delivery vehicle signs so long as the vehicle is shielded from public view when stored or stopped and otherwise does not park at any one location longer than reasonably necessary to make a delivery or if the vehicle is primary transportation for a resident and the vehicle is parked in the driveway of the resident.

Sign, window. A sign posted, painted, placed, or affixed in or on a window exposed to public view. An interior sign that faces a window exposed to public view and located within three feet of the window is considered a window sign for the purpose of calculating the total area of all window signs.

Site. A building which houses a single activity and the contiguous grounds and parking areas which exclusively service that building or any number of activities housed by a single building or multiple buildings which share common egress or ingress from a public street or right-of-way.

Street. A public right-of-way utilized by the public, and shall include such terms as avenue, drive, circle, road, boulevard, and highway, but shall not include alleys.

Thoroughfare. Any public right-of-way which is 80 feet in width or greater designated as a thoroughfare by the city by ordinance or resolution.

Wind device. Any flag, banner, pennant, streamer or similar device that moves freely in the wind. All wind devices are considered to be signs, and are regulated and classified as attached or detached by the same rules as other signs. Heavier-than-air inflatables must be firmly tethered to the ground and shall not exceed a maximum of 35 feet in height from the ground. Feather signs are considered wind device signs and shall not exceed 15 feet in height.

Word. For the purpose of this article, one word shall be deemed to be any of the following:

- (1) Any word in any language found in any standard unabridged dictionary or dictionary of slang.
- (2) Any proper noun or any initial.
- (3) Any separate symbol or abbreviation, such as "&," "\$," "%," and "Inc."
- (4) Any telephone number, street number or commonly used combination of numerals and/or symbols such as "\$5.00" or "50%."
- (5) Any symbol or logo which is a registered trademark, but which itself contains no word or character.
- (6) Otherwise, each separate character is considered to be a word.

Zoning district, business. Any zoning district designated other than residential zoning by the comprehensive zoning ordinance of the city, as amended.

Zoning district, residential. Any zoning district designated as a residential district in the comprehensive zoning ordinance as amended.

(2006 Code, sec. 28-2; Ordinance 09-05-797, sec. 2 (art. I, sec. 2), adopted 5/18/09; Ordinance 09-07-805, sec. 2, adopted 7/6/09; Ordinance 13-02-947, sec. 2, adopted 2/19/13; Ordinance 13-05-950, sec. 2, adopted 5/7/13)

Sec. 26.02.003 General standards

(a) All signs erected or maintained pursuant to the provisions of this article shall be erected and maintained in compliance with all applicable state laws and with the building code, electrical code and other applicable ordinances of the city. In the event of conflict between this article and other laws, the most restrictive standard applies.

(b) No sign shall be erected, maintained, placed or otherwise situated in such a manner so as to obstruct or interfere with the minimum sight line standards.

(2006 Code, sec. 28-3; Ordinance 09-05-797, sec. 2 (art. I, sec. 3), adopted 5/18/09)

Sec. 26.02.004 General provisions applicable to signs

(a) In business zoning districts, no illuminated sign which has a sign area of 50 square feet or less shall have a luminance greater than 300 footcandles, nor shall any such sign have a luminance greater than 300 footcandles

for any portion of the sign within a circle two feet in diameter. The restrictions of luminance in this section shall be determined from any other premises or from any public right-of-way.

(b) Time and temperature informational signs and electronic reader boards oriented to be read from public ways are prohibited except as provided in section 26.02.009(c) below.

(c) Pole signs are prohibited.

(2006 Code, sec. 28-21; Ordinance 09-05-797, sec. 2 (art. I, sec. 21), adopted 5/18/09; Ordinance 13-05-950, sec. 3, adopted 5/7/13; Ordinance 14-01-967, secs. (a)–(c), adopted 1/7/14; Ordinance adopting 2015 Code)

Sec. 26.02.005 Imitation of traffic or emergency signs prohibited

No person shall cause to be erected or maintained any sign using any combination of forms, words, colors or lights which imitate standard public traffic regulatory or emergency signs or signals. (2006 Code, sec. 28-4; Ordinance 09-05-797, sec. 2 (art. I, sec. 4), adopted 5/18/09)

Sec. 26.02.006 Roof signs

(a) No sign shall project above the roofline or be attached to a roof of a building.

(b) Exceptions:

- (1) Signs may be placed on the first 30 inches above the roof on a parapet or similar projection which is continuous on two or more sides of the structure.
- (2) Signs may be placed a maximum of ten feet above the roof on a parapet or similar projection which is continuous on three or more sides.
- (3) Signs shall not project above any portion of a parapet or similar projection.

(2006 Code, sec. 28-5; Ordinance 09-05-797, sec. 2 (art. I, sec. 5), adopted 5/18/09)

Sec. 26.02.007 Signs on public property

Except as specifically authorized in this article, no person shall attach any sign, paper, or other material or paint, stencil, or write any name or number or otherwise mark any sidewalk, curb, gutter, street, tree, utility pole, traffic sign, traffic light standard, public building, public fence, or public structure. This section shall not prohibit the posting of governmental signs or the painting or attaching of street address numbers to curbs. Both the person who erected or affixed the sign and the person and business who benefits from the placement of the sign shall be responsible for the illegally placed sign. (2006 Code, sec. 28-7; Ordinance 09-05-797, sec. 2 (art. I, sec. 7), adopted 5/18/09; Ordinance 13-02-947, sec. 4, adopted 2/19/13)

Sec. 26.02.008 Signs in right-of-way prohibited

Except as specifically authorized in this article, no sign shall be erected or affixed within or project over any public right-of-way or across the public right-of-way line extended across a railroad right-of-way. This section shall not be construed so as to prohibit the carrying or displaying of signs by any person so long as such sign is not connected or affixed to the real property comprising the public right-of-way, its fixtures and appurtenances. Homeowners' associations and crime watch meetings and alerts may have signs projecting over the public right-of-way. Both the person who erected or affixed the sign and the person and business who benefits from the placement of the sign shall be responsible for the illegally placed sign. (2006 Code, sec. 28-6(a); Ordinance 09-05-797, sec. 2 (art. I, sec. 6), adopted 5/18/09; Ordinance 13-02-947, sec. 3, adopted 2/19/13)

Sec. 26.02.009 Changeable electronic variable message signs (CEVMS)

(a) Prohibited. Changeable electronic variable message sign(s) (CEVMS), as defined in this article, are expressly prohibited within the city limits and the extraterritorial jurisdiction of the city as defined by V.T.C.A. Local Government Code, section 42.021.

(b) General exceptions. The following signs are allowed and exempt even if they meet the definition of a CEVMS:

- (1) Traffic-control signs;
- (2) Traffic flow informational signs;
- (3) Directional signs;
- (4) Temporary signs;
- (5) Safety control signs; and
- (6) Existing CEVMS.

(c) Exceptions in certain zoning districts. Changeable electronic variable message signs are permitted under the following conditions on property located on a Type A Major Arterials as shown on the city's thoroughfare plan and that is on property zoned public/semi public:

- (1) Signs permitted under this subsection (c) shall be exempt from the provisions of section 26.02.004(a) above.
- (2) The sign must be located not less than 150 feet from a single-family residential structure located in the city.
- (3) The sign must meet the size, design and location requirements for monument signs set forth in section 26.02.023.
- (4) Intensity of display brightness must automatically adjust to natural light conditions. Brightness cannot interfere with the vision of traffic on an adjacent road or constitute a nuisance or hazard to traffic.
- (5) Sign illumination will comply with TxDOT standards.
- (6) The city does not endorse the content of electronic reader board messages.

(2006 Code, sec. 28-6(b); Ordinance 09-07-805, sec. 3, adopted 7/6/09; Ordinance 14-01-967, sec. (d), adopted 1/7/14; Ordinance adopting 2015 Code)

Sec. 26.02.010 Floating signs prohibited

Signs consisting of lighter-than-air or floating devices are prohibited. (2006 Code, sec. 28-8; Ordinance 09-05-797, sec. 2 (art. I, sec. 8), adopted 5/18/09)

Sec. 26.02.011 Portable signs prohibited

Portable signs are prohibited. (2006 Code, sec. 28-9; Ordinance 09-05-797, sec. 2 (art. I, sec. 9), adopted 5/18/09)

Sec. 26.02.012 Political signs

Political signs regarding an issue or candidate in an election may be erected on private property without limit as to number, provided that such signs comply with other applicable requirements of this article, and provided further that the owner or occupant of the property on which sign is displayed shall comply with the following regulations:

- (1) Political signs must comply with state law and are prohibited from:
 - (A) Having a surface area greater than 36 square feet.
 - (B) Being more than eight feet in height.
 - (C) Being illuminated.
 - (D) Having moving elements.
 - (E) Being located in center medians or within 15 feet of any stop sign/traffic light.
 - (F) Being placed on private property without the permission of the property owner.
 - (G) All candidate signs must be removed within two days after the conclusion of the election.
 - (H) Being placed on city-owned property except:
 - (i) Along the south entrance of the Municipal Complex. Signs may be placed on the south side of this driveway beginning ten days prior to early voting. The sign placement area shall be between the customer service utility payment drive area and the right-of-way at Murphy Road.
 - (ii) The total sign area of a candidate on city-owned property may not exceed 16 square feet.
 - (iii) On election day, candidates and/or supporters may place campaign signs in the east lawn across from the city hall south parking lot, as long as they are outside the mandated election boundary lines.
- (2) The city may remove any sign that is not in compliance with any of the above regulations.
- (3) Political signs must comply with all laws and regulations regulating the placement, location, and sight visibility triangle which relates to all signage.

(2006 Code, sec. 28-10; Ordinance 09-05-797, sec. 2 (art. I, sec. 10), adopted 5/18/09; Ordinance 12-06-915, sec. 2, adopted 6/5/12)

Sec. 26.02.013 Special-purpose signs

- (a) Flags, emblems and insignia of a governmental entity are allowed.
- (b) Special-purpose temporary construction signs denoting the architect, engineer, contractor, subcontractor or financier and temporary signs denoting the future location of a particular business, retail center or institution are allowed one such construction sign and one such future location sign per street adjacent to the construction site or future location site. No such sign shall exceed 32 square feet in area nor extend higher than 15 feet as measured from ground level; provided that such signs are located on the premises where the construction or location being advertised is or will be occurring. Such signs shall be removed upon issuance of a certificate of occupancy.

(c) Special-purpose freestanding signs for the purpose of identifying the location of or direction to subdivisions or major homebuilder sites are allowed. Such signs shall be on-premises and shall not exceed 32 square feet in area, nor extend more than ten feet in height, or when located adjacent to a screening wall shall not extend more than 15 feet in height. A homebuilder with 25 lots or more qualifies as a major homebuilder. One such sign may be allowed for subdivisions, major homebuilders, sites or developments of 30 acres or less. One additional sign shall be allowed for each additional 30 acres. Permits for such signs may be granted for a maximum period of 12-month intervals, with such signs being removed upon 90 percent completion of the project. No such sign shall be located closer than 100 feet to a residential dwelling not within the subdivision.

(d) Off-premises special-purpose freestanding directional signs for the purpose of identifying the location of or direction to a subdivision within a residential zoning district are allowed under the following conditions:

- (1) Such signs shall not advertise any site located outside the city limits;
- (2) Such signs shall be located within a one-mile radius of the subdivision to which it pertains and shall not be located closer than 100 feet to a residential dwelling;
- (3) Such signs shall not exceed 100 square feet in area, nor extend more than 15 feet in height;
- (4) The maximum number of such signs shall not exceed one sign per 50 lots, or fraction thereof, nor a maximum of two signs per subdivision;
- (5) No such off-premises special-purpose freestanding directional sign shall be erected closer than 100 feet from any other off-premises sign on the same side of the thoroughfare;
- (6) Permits for such signs may be granted for maximum intervals of 12 months each with such signs being removed when 90 percent of the lots within the subdivision have been developed.

(e) Wind devices, heavier-than-air inflatables, and similar special-purpose signs promoting a single-family subdivision or multifamily complex shall be allowed a maximum single use period not to exceed 15 days, with a minimum period between permits of 30 days and a maximum number of three permits per year for a given subdivision or complex.

(f) Wind devices, heavier-than-air inflatables, and similar special-purpose signs promoting a retail or commercial establishment or center shall be allowed a maximum single use period not to exceed seven days with a minimum period between permits of 15 days and a maximum number of three permits per year for a given establishment or center.

(g) Signs that advertise sales, specials, grand openings, or other goods or services available within an establishment may be placed in windows using water soluble paint, appliques or other temporary and removable means provided that no such window sign may:

- (1) Be located on the window surface in any manner that obscures more than 25 percent of the visible window area available in the absence of any signs; and
- (2) Remain in place more than 30 days in any six-month period.

(2006 Code, sec. 28-11; Ordinance 09-05-797, sec. 2 (art. II, sec. 11), adopted 5/18/09; Ordinance 13-02-947, sec. 5, adopted 2/19/13)

Sec. 26.02.014 Movement control signs

Movement control signs may be erected at any activity or on any site, other than a single-family or duplex premises, may be attached or freestanding, and may be erected without limit as to number; provided that such signs shall comply with other applicable requirements of this article, and:

- (1) Freestanding movement control signs shall not exceed six square feet in effective area and shall not exceed three feet in height.
- (2) If a movement control sign is an attached sign, the letters shall not exceed four inches in height and the sign area shall not exceed six square feet.
- (3) The signs must contain no advertising or identification message.

(2006 Code, sec. 28-12; Ordinance 09-05-797, sec. 2 (art. I, sec. 12), adopted 5/18/09)

Sec. 26.02.015 Protective signs

A site may not contain more than two protective signs and one additional protective sign per site for every 450 linear feet abutting a public street, in accordance with the following provisions:

- (1) Each sign shall not exceed 100 square inches in area;
- (2) Freestanding signs shall not exceed two feet in height;
- (3) Letters shall not exceed four inches in height.

(2006 Code, sec. 28-13; Ordinance 09-05-797, sec. 2 (art. I, sec. 13), adopted 5/18/09)

Sec. 26.02.016 Sale or lease signs

A site may contain on-premises attached or freestanding signs for the purpose of advertising the sale or lease of the real property on which such sign is located, subject to the following provisions:

- (1) Signs advertising the sale or lease of residential property shall not exceed eight square feet in area nor five feet in height. The number of such signs shall be limited to one per lot or complex where such lot or complex abuts one street; one additional sign shall be allowed for each additional street.
- (2) Signs advertising the sale or lease of a business property shall not exceed 32 square feet in area or eight feet in height.
- (3) Permits for such signs may be granted for a maximum period of 12-month intervals.

(2006 Code, sec. 28-14; Ordinance 09-05-797, sec. 2 (art. I, sec. 14), adopted 5/18/09; Ordinance 13-02-947, sec. 6, adopted 2/19/13; Ordinance 15-06-994, sec. 2, adopted 6/2/15)

Sec. 26.02.017 Vehicular signs

Vehicular signs are prohibited. (2006 Code, sec. 28-15; Ordinance 09-05-797, sec. 2 (art. I, sec. 15), adopted 5/18/09)

Sec. 26.02.018 Kiosk signs

Kiosk signs provide a uniform, coordinated method of providing homeowners, developers and municipalities a means of utilizing directional signs, while minimizing the negative impacts to the city and its residents. Kiosk signs shall be used for homebuilder, developer and subdivision directional signage. Kiosk signs shall also

provide service to the public on directions to municipal facilities and parks. Kiosk signs must meet the following regulations:

- (1) Procedures for installing kiosk sign.
 - (A) The city council may, pursuant to a duly executed services contract, grant to a person or company (a “contractor”) the right to design, erect, and maintain kiosk signs within the city and administer the kiosk program as set forth by that contract.
 - (B) Kiosk signs shall be constructed, installed and maintained by the city or a contractor authorized by the city under a contract and may be moved or removed at any time by a decision of the city council.
 - (C) Once a services contract is approved by the city council, the contractor shall submit a map, elevations, and any other documentation deemed necessary by city staff, showing the location and design of the proposed kiosk signs to the city manager or his designee. Upon review of the map, elevations, and any other applicable documentation, the city manager shall make a recommendation to the city council as to whether the location and design of the proposed kiosk signs should be approved, denied, or modified.
 - (D) The city council may approve, deny, or approve with modifications the location and design of the proposed kiosk signs as shown on the map, elevations, and other applicable documentation. Modifications include, but are not limited to, modifications of the color of, or materials used in, the sign panels. No party may erect a kiosk sign without city council approval of the location and design of the kiosks.
 - (E) The contractor must comply with all permitting requirements set forth in the city’s Code of Ordinances.
- (2) Location. Although the city council has the authority to determine where kiosk signs may be located, locations must at least meet the following criteria:
 - (A) The location of kiosk signs must not create traffic hazards. The obstruction of the visibility of motorists, pedestrians, or traffic-control signs will constitute a type of traffic hazard. The city manager or his designee shall review the location of each proposed kiosk sign. A kiosk sign shall not be installed if the city manager or his designee determines that the location of the proposed sign would create a traffic hazard.
 - (B) The location of kiosk signs must not interfere with the general use of, and handicap accessibility of, sidewalks, walkways, and bike and hiking trails.
 - (C) The location of kiosk signs must not interfere with any public utilities or be located in a utility easement.
 - (D) Kiosk signs must not be located within a sight visibility triangle.
 - (E) A kiosk sign must be located at least 100 feet from all other kiosk signs, including signs located across a street from each other.
 - (F) Kiosk signs must not be located within a median.
 - (G) Kiosk signs must be located at least five feet from the edge of a curb or pavement line, which includes improved surfaces and shoulders.

- (3) Design. Although the city council has the authority to determine which designs are appropriate, designs must at least meet the following criteria:
- (A) Kiosk signs shall be ladder type with individual sign panels of uniform height.
 - (B) At least two sign panels on each kiosk sign must provide directions to a municipal facility or provide information about an upcoming city-sponsored event.
 - (C) Kiosk signs may not exceed 12 feet in height and four feet in width.
 - (D) Kiosk signs must include breakaway design features as required by the state department of transportation's (TxDOT) sign mounting details for roadside signs. Break-away fittings must be installed below grade or concealed from public view in another manner approved by the city council through the building inspections department.
 - (E) The font and color of the kiosk sign must be uniform throughout the entire sign.
 - (F) Kiosk signs shall not be illuminated.
 - (G) There must be an identification panel at the top of each kiosk sign that displays only the name and official logo of the city.
 - (H) No signs, pennants, flags, streamers, balloons or other devices or appurtenances used for visual attention may be attached to kiosk signs.
 - (I) Phone numbers and addresses are not allowed to be displayed on the sign panels.
- (4) Variances. The city council may authorize a variance to the kiosk sign procedures or regulations set forth in this article.

(2006 Code, sec. 28-16; Ordinance 09-05-797, sec. 2 (art. I, sec. 16), adopted 5/18/09; Ordinance 13-02-947, sec. 7, adopted 2/19/13)

Sec. 26.02.019 Government signs

Nothing in this article shall be construed to prevent or affect the display of a national or state flag, or to limit flags, insignia, legal notices or informational, directional or traffic signs which are legally required or necessary to the essential functions of government agencies. Nothing in this article shall be construed as affecting or limiting the city from displaying signs upon city rights-of-way and city property. (2006 Code, sec. 28-17; Ordinance 09-05-797, sec. 2 (art. I, sec. 17), adopted 5/18/09)

Sec. 26.02.020 Creation of site

The building official shall not issue a permit for construction, erection, placement, or maintenance of a sign until a site is established for the sign. (2006 Code, sec. 28-18; Ordinance 09-05-797, sec. 2 (art. I, sec. 18), adopted 5/18/09)

Sec. 26.02.021 Presumption regarding responsibility for sign

It shall be a rebuttable presumption that a sign was erected, placed, displayed or maintained by the person identified on the sign by name, address, telephone number, or other identifying characteristics, or to whose benefit the sign directly contributes. (2006 Code, sec. 28-19; Ordinance 09-05-797, sec. 2 (art. I, sec. 19), adopted 5/18/09)

Sec. 26.02.022 Applicability of provisions for business districts

(a) The provisions of this section [sections 26.02.022 through 26.02.024] apply to all signs in business zoning districts unless the sign is within 25 feet of either a residential zoning district boundary or a public park of more than one acre.

(b) Signs within 25 feet of either a residential zoning district boundary or a public park of more than one acre shall be governed by the provisions applicable to signs in residential zoning districts.

(2006 Code, sec. 28-20; Ordinance 09-05-797, sec. 2 (art. I, sec. 20), adopted 5/18/09)

Sec. 26.02.023 Monument signs in business districts

Monument signs are permitted in business zoning districts as follows:

(1) Number of signs.

(A) Only one monument sign of any type may be erected on any site's thoroughfare frontage, not to exceed two signs per site.

(i) Signs not exceeding 16 square feet and not exceeding six feet in height are allowed for an activity providing engine fuel sales which advertise prices of fuel on the premises. No activity shall have more than one such sign per street front. In no case shall such sign be monument.

(2) Setback.

(A) Freestanding signs of a sign area of 50 square feet or less may be located as near as five feet to the public right-of-way.

(B) No part of a freestanding sign shall be closer than 25 feet measured radially to another freestanding sign on an adjacent sign site, nor shall any part of a freestanding sign on the same site be closer than 100 feet radially to another freestanding sign on that same sign site.

(3) Size, height and building materials.

(A) No freestanding sign shall exceed 50 square feet in sign area or seven feet in height except as herein provided.

(B) Freestanding signs may incorporate embellishments or cut-outs, provided that they shall not exceed 20 percent of the area of the sign face and that they shall not extend beyond the sign face a distance exceeding 18 inches as measured horizontally.

(C) Every monument sign shall be required to have a minimum one-half-foot masonry base, measured from grade level to the bottom of the sign area. Every monument sign shall be required to have a minimum six-inch masonry border on each side of the sign area. A minimum six-inch masonry cap is allowed above the sign area; however, it is not required. If the masonry cap option is not chosen, the maximum height of the sign structure shall be limited to seven feet. All monument signs will require engineer sealed drawings.

(D) Building materials and colors utilized for construction of monument bases, side borders, caps, and sign frames shall be constructed of the same materials found on the main building on the lot, unless otherwise approved by the city council.

- (E) If the proposed sign is to be constructed on a lot with an existing building which does not contain a masonry facade, the materials used for the monument base, side borders and cap must be stone or brick.

- (4) Off-premises signs. Off-premises signs are prohibited.

(2006 Code, sec. 28-22; Ordinance 09-05-797, sec. 2 (art. I, sec. 22), adopted 5/18/09; Ordinance 13-02-947, sec. 8, adopted 2/19/13)

Sec. 26.02.024 Attached signs in business districts

Attached signs are permitted in business districts in accordance with the following provisions:

- (1) Sign area.
 - (A) The sign area of an attached sign shall have a maximum square footage of two times the width of the occupant space as measured along main entrance or frontage.
 - (B) The sign area for attached signs on multi-story buildings shall be two times the width of the main building frontage. The sign area for attached signs on tenant spaces within a multi-story building which has a public entrance shall be allowed per the attached sign requirements in subsection (A).
- (2) Location and height.
 - (A) Where an activity is located on the first story of a multi-story building, an attached sign may not project above the floor level of the second story.
 - (B) Where an activity is located above the first story of a multi-story building, an attached sign may not project above the floor immediately above.
 - (C) No attached sign shall project a distance greater than 18 inches from the architectural element to which it is affixed.

(2006 Code, sec. 28-23; Ordinance 09-05-797, sec. 2 (art. I, sec. 23), adopted 5/18/09)

Sec. 26.02.025 Window signs

Window signs in the use districts, where permitted, do not require a sign permit and do not require approval by any municipal agency prior to erection. In no event may signs be located on the window surface internally or externally in any manner to obscure more than 25 percent of the visible window area available in the absence of any signs. Where multiple windows exist fronting on a single street or sidewalk, the 25 percent visibility shall be maintained for the total window area on such street or sidewalk. Specifically, window signs shall include:

- (1) Signs painted on the external or internal surface of the window of an establishment in commercial or retail districts with water-durable paint on external surfaces.
- (2) Signs (except posters), banners or displays located on the internal surface of the window of an establishment in commercial or retail districts only.
- (3) Posters, providing such posters are not located on the external surface of the window.
- (4) Decorations intended to direct attention to and stimulate citizens' interest in public events, providing such signs are painted on the external surface of the window and a 25 percent visibility requirement is maintained.

- (5) Signs attached to the external surface of a window of a retail or commercial establishment if of water-durable paint or noncombustible material and signs attached to the internal surface of a window which define the name, proprietor, telephone number or address of such retail or commercial establishment.

(2006 Code, sec. 28-24; Ordinance 09-05-797, sec. 2 (art. I, sec. 24), adopted 5/18/09)

Sec. 26.02.026 Applicability of provisions for residential districts

The provisions of this section [sections 26.02.027 through 26.02.029] shall apply to all signs in any residential district, within 25 feet of a residential district boundary, within 25 feet of a public park of more than one acre, or where a multifamily residential use occurs. (2006 Code, sec. 28-25; Ordinance 09-05-797, sec. 2 (art. I, sec. 25), adopted 5/18/09)

Sec. 26.02.027 General provisions relating to signs in residential districts

- (a) No portion of an illuminated sign shall have a luminance greater than 200 footcandles.
- (b) No sign nor part of any sign in a residential zoning district shall move, flash, rotate or change its illumination or copy. A sign may have interchangeable letters as defined in "Sign, marquee" but must meet all the requirements of either the attached or freestanding sign provisions.
- (c) An occupant in residential zoning districts may erect only special-purpose signs and special-purpose political signs, and premise signs, which include movement control signs and protective signs. Temporary holiday decorations are permitted. Nameplates less than one square foot, security signs and child recognition signs are allowed.
- (d)
 - (1) The planning and zoning commission may permit the erection of signs on any legally erected structure in any single-family and patio home residential subdivisions. The maximum sign area of such signs shall not exceed 40 square feet. The maximum number of signs permitted for each subdivision shall be two signs per street entrance into the platted subdivision area. The sign height, maximum sign area, location on the site, words, setbacks, a graphic presentation of the sign, and number of signs per subdivision shall be prominently indicated on the plans submitted to the planning and zoning commission.
 - (2) Exception: Building inspection may issue permits on subdivision signs according to the above-mentioned criteria and the following:
 - (A) The signs are attached to screening walls which are not in the right-of-way (ROW).
 - (B) The signs are not illuminated.
- (e) Homeowners' association and crime watch meeting and alert signs not exceeding two and one-half feet in height nor two square feet in area may be placed on public property at the entrances of the homeowners' association and crime watch areas on the week of the meeting or alert and must be removed the following day by 12:00 p.m.

(2006 Code, sec. 28-26; Ordinance 09-05-797, sec. 2 (art. I, sec. 26), adopted 5/18/09; Ordinance 13-05-950, sec. 4, adopted 5/7/13)

Sec. 26.02.028 Monument signs in residential districts

Multifamily and nonresidential sites in residential zones may have monument signs subject to the following restrictions:

- (1) Number of signs. Each site may have a monument sign for each 500 feet of frontage along a street, other than an alley. In no case shall such site have more than two monument signs.
- (2) Setback, sign area and height. A minimum setback of five feet is required of all monument signs. A minimum setback of ten feet from the public right-of-way is required for signs exceeding ten square feet in sign area or 15 feet in height. A minimum setback of 20 feet is required for all signs exceeding 20 square feet in sign area or 20 feet in height. No monument sign shall exceed 50 square feet in sign area or 25 feet in height.
- (3) Every monument sign shall be required to have a minimum one-half-foot masonry base, measured from grade level to the bottom of the sign area. Every monument sign shall be required to have a minimum six-inch masonry border on each side of the sign area. A minimum six-inch masonry cap is allowed above the sign area; however, it is not required. If, the masonry cap option is not chosen, the maximum height of the sign structure shall be limited to seven feet. All monument signs will require engineer sealed drawings.
- (4) Building materials and colors utilized for construction of monument bases, side borders, caps, and sign frames shall be constructed of the same materials found on the main building on the lot, unless otherwise approved by the city council.
- (5) If the proposed sign is to be constructed on a lot with an existing building which does not contain a masonry facade, the materials used for the monument base, side borders and cap must be stone or brick.

(2006 Code, sec. 28-27; Ordinance 09-05-797, sec. 2 (art. I, sec. 27), adopted 5/18/09; Ordinance 13-02-947, sec. 9, adopted 2/19/13)

Sec. 26.02.029 Attached signs in residential districts

Attached signs are permitted for multifamily premises and nonresidential uses in residential zoning districts and are subject to the provisions of the section governing attached signage in business districts. (2006 Code, sec. 28-28; Ordinance 09-05-797, sec. 2 (art. I, sec. 28), adopted 5/18/09)

Sec. 26.02.030 Powers and duties of building official

- (a) Generally. The building official is hereby authorized and directed to enforce all the provisions of this code.
- (b) Right of entry.

- (1) Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the building official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code; provided that, if such building or premises be occupied, he shall first present proper credentials and request entry, and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the building official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

- (2) When the building official or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official or his authorized representative for the purpose of inspection and examination pursuant to this article.
- (c) Stop orders. Whenever any work is being done contrary to the provisions of this article, the building official may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such person shall forthwith stop such work until authorized by the building official to proceed with the work.

(2006 Code, sec. 28-29; Ordinance 09-05-797, sec. 2 (art. I, sec. 29), adopted 5/18/09)

Sec. 26.02.031 Permits and inspections

- (a) Permit required. No person, firm or corporation shall erect, construct, alter, rebuild, enlarge, extend, convert, maintain, replace, relocate, remove or demolish a sign or alter or change words or rearrange neon tubing on a sign or cause the same to be done without first obtaining a separate sign permit for each sign.
- (b) Signs exempt from permitting. The following type of signs are exempted from permitting:
- (1) The changing of words on a sign that is designed with interchangeable words.
 - (2) Normal maintenance to replace worn parts and repainting deteriorated paint without word change.
 - (3) Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.
 - (4) Government signs such as flags, insignia, legal notices or informational, directional or traffic signs which are legally required or necessary to the essential functions of government agencies.
 - (5) Special-purpose political signs.
 - (6) Non-illuminated temporary construction signs.
 - (7) Signs painted directly on internal or external window surfaces.
 - (8) Non-illuminated movement control signs not exceeding six square feet in effective area, or three feet in height.
 - (9) Non-illuminated freestanding protective signs not exceeding 100 square inches in effective area, or two feet in height.
 - (10) Non-illuminated on-premises signs advertising the sale or lease of a non-business property not exceeding eight square feet in effective area or five feet in height.
 - (11) Non-illuminated on-premises freestanding signs advertising the sale or lease of a business property.
 - (12) Homeowners' association and crime watch meeting and alert signs.
- (c) Other required permits. Unless otherwise exempted, separate plumbing, electrical and mechanical permits will be required for the above-exempted items.

(d) Application for permit. To obtain a permit, the applicant shall file an application in writing on a form furnished for that purpose. Every such application shall:

- (1) Identify and describe the work to be covered by the permit for which application is made.
- (2) Describe the land on which the proposed work is to be done by zoning, lot, block, tract, subdivision, and street address, or similar description that will readily identify and definitely locate the proposed work.
- (3) Be accompanied by a notarized authorization from the owner of the property when required by the building official.
- (4) Be accompanied by plans and specifications as required in this code and all applicable laws and ordinances.
- (5) State the valuation of the proposed work.
- (6) Be signed by the applicant, or an authorized agent, who may be required to submit evidence to indicate such authority.
- (7) Give such other information as reasonably may be required.

(e) Plans and specifications. With each application for a permit, not less than two sets of plans and specifications shall be submitted, and all drawings, specifications and accompanying data shall bear the name and address of the designer. The structural design of monument signs in excess of seven feet in height shall be prepared and designed by an engineer licensed by the state.

(f) Permit fees. The fee for such permit shall be as prescribed by the fee schedule located in appendix A of the Code of Ordinances.

(g) Expiration of permit. Every permit issued under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 60 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of more than 120 days. Before such work can be recommenced, a new permit shall be first obtained.

(h) Special-purpose/builder sign renewal. If previously permitted sign has not been moved or altered in any way, a sign permit renewal request, photo or artwork of sign and appropriate fee payment are required.

(i) Suspension or revocation of permit. The city manager or his designee may, in writing, suspend or revoke a permit issued under provisions of this code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any law or ordinance.

(j) Refund of fees. There shall be no refunds of sign permit fees paid under the terms of this code, except for the following:

- (1) When it is determined that a sign permit was issued due to an error, a full refund may be authorized by the city manager or his designee.

(k) Inspections. All signs for which a permit is required shall be subject to inspection by the building official.

- (1) Pre-inspection. The building official, upon receipt of an application for permit for a sign, may make a pre-inspection. The application, plans and specifications, and other data, filed by an applicant for a permit shall be reviewed by the building official. Such plans may be reviewed by other departments to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in an application for a permit and the plans, specifications and

other data filed therewith conform to the requirements of this article and other pertinent laws and ordinances, and that the fees specified in paragraph (f) herein have been paid, he shall issue a permit therefor to the applicant.

- (2) Final inspection. The building official, upon the call of the permit holder, shall make a final inspection after the work is completed. All requests for final inspection shall be made at least 24 hours before the inspection is desired.
- (3) Responsibility of contractor. It shall be the responsibility of the contractor to ensure that each necessary inspection is requested from the building official and to ensure that subsequent stages of construction are not started until said inspection has been conducted and approved. This also includes all subcontractor types of inspections such as electrical, mechanical, plumbing, etc. If it is found, upon inspection by the city, that a contractor has completed a sign without having obtained the necessary inspections and approvals, future permits shall be denied to that contractor pending completion and approval of said inspections.

(2006 Code, sec. 28-30; Ordinance 09-05-797, sec. 2 (art. I, sec. 30), adopted 5/18/09; Ordinance 13-02-947, sec. 10, adopted 2/19/13)

Sec. 26.02.032 Design and construction standards

- (a) Construction generally. All signs and their supports shall be built, constructed and erected in conformance with the requirements of all laws and ordinances.
- (b) Structural standards. Signs shall comply with the design standards of the International Building Code as adopted by the city.
- (c) Electrical wiring and connections. Signs in which electrical wiring and connections are used shall comply with the requirements of the electrical code of the city.
- (d) Plumbing or mechanical devices. Signs in which plumbing or mechanical devices are used shall comply with the requirements of the plumbing and mechanical codes of the city.
- (e) Materials. The type of materials used in the construction, wiring, plumbing or mechanical portion of the sign shall conform to the structural codes of the city (building, electrical, mechanical and plumbing codes).
- (f) Protection of electrical devices; clearance from conductors. Electrical devices within reach of persons on public property shall be protected by wire glass, safety glass, locked box of metal or wood, or other approved methods. No sign shall be erected nearer than two feet from any telephone cable, electrical streetlight standard, electrical power poles, or electrical power distribution lines when voltage between conductors is less than 300 volts. If the voltage between conductors is 300 volts or greater, clearances shall be maintained as follows:

Voltage of Conductors	Horizontal Clearance in Feet	Vertical Clearance in Feet
300 to 8,700	3	8
8,700 to 15,000	8	8
15,000 to 50,000	10	10
50,000 +	10 plus 9.5 inch per kv in excess	10 plus 0.5 inch per kv in excess

Note: For spans greater than 150 feet, refer to the National Electrical Safety Code.

- (g) Clearance from fire escapes, exits or standpipes. No sign or its supports shall be erected in such a manner which will interfere in any way with the use of any fire escape, exit or standpipe. No sign or its supports shall be attached to a standpipe or fire escape.
- (h) Obstruction of openings in buildings. No sign or its supports shall obstruct any required openings to such an extent that light or ventilation is reduced below that required.

- (i) Weatherproofing. All signs shall be constructed so as to prevent the accumulation of water.
- (j) Conflicting regulations. In the event of a conflict between any applicable ordinance of the city, then the most restrictive code requirements shall apply.
- (k) Materials. All freestanding signs shall be constructed of materials that are noncombustible or slow burning (as in the case of plastic insert of facings) and shall be supported by noncombustible material only and finished in a presentable manner. Untreated wood or unpainted or non-galvanized steel supports are specifically prohibited.

(2006 Code, sec. 28-31; Ordinance 09-05-797, sec. 2 (art. I, sec. 31), adopted 5/18/09)

Sec. 26.02.033 Maintenance; nonconforming signs; removal of signs

- (a) Maintenance of signs. Except as provided in subsections (b) and (c) of this section, any sign or portion of a sign or sign support determined by the city to be unsafe or unsecured, a menace to the public, becomes dangerous to life, limb or property, or an obstruction to the use of any sidewalk or roadway, or interferes with the operation of the fire department, or in such dilapidated condition as to be unsightly, and therefore prejudicial to the public welfare, shall be repaired, maintained, or removed.
- (b) Nonconforming signs. Except as provided in this subsection, any sign which is designated by the building official a nonconforming sign, as defined, shall be permitted to be continued as a nonconforming sign unless such sign is made a conforming sign. Any nonconforming sign which is destroyed, deteriorated, or dilapidated to such extent that the cost of repairing the sign to a condition acceptable by the building official is more than 60 percent of the cost of erecting a new sign of the same type at the same location shall be removed.
- (c) Illegal signs. Illegal signs shall be immediately removed upon written notice by the city.
- (d) Time limit. Except as provided in subsection (c) above, any sign which is required by this section to be removed, relocated, or repaired shall be removed, relocated or repaired at the expense of the owner within ten days of a notice given by the building official. Any such sign not removed, relocated, or repaired within this time limit may be removed by the building official at the expense of the owner of such sign.

(2006 Code, sec. 28-32; Ordinance 09-05-797, sec. 2 (art. I, sec. 32), adopted 5/18/09; Ordinance 13-02-947, sec. 11, adopted 2/19/13)

Sec. 26.02.034 Variances and appeals; authority of planning and zoning commission

- (a) Recommendation of variances. The planning and zoning commission may, for a particular site, recommend variances and exceptions with respect to the provisions of this article.
- (b) Approval of variance request; hearing by city council. When the commission is ready to act upon the variance or exception request, it may recommend approval of the request as it was submitted by the applicant, approval of the request subject to certain conditions or denial of the request. If the commission's recommendation is to approve the request, either as submitted or with additional conditions, then the request will be automatically forwarded to the city council for a second public hearing thereon.
- (c) Denial of variance request. When the planning and zoning commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.
- (d) Recommendations for amendments. The planning and zoning commission shall recommend to the city council legislation for amendments to this code in keeping with technological progress with respect to public health, safety and welfare.

(e) Appeal of actions of building official. The planning and zoning commission may hear and decide appeals which allege error in any order, requirement, decision or determination made by the building official in the enforcement of this article.

(f) Abandoned or hazardous nonconforming signs. The planning and zoning commission may require a nonconforming sign to be brought into immediate conformity with all current standards of all ordinances of the city or to be removed when, from the evidence presented, the commission finds the sign to be hazardous to the public or to have been abandoned by its owners.

(g) Considerations in granting variance. The planning and zoning commission, in considering an application for a variance, shall consider to what extent, if any, the site for which the applicant seeks a variance differs from adjoining sites, the extent that the hardship or inequity claimed by the applicant is self-created or based upon financial need of the applicant, and the adverse effects that the granting of a variance may or would create.

(h) Variance request after denial or withdrawal. To promote the stability and well-being of the community and offer certainty to the city's citizens regarding variance decisions, the filing of an application for a variance for a particular parcel of property shall not be allowed if a similar variance request on the same parcel was denied by the city council or the variance request was withdrawn after the giving of public notice. An applicant may file an application for a variance after denial or withdrawal if the city manager or his designee determines that circumstances related to the prior denial or withdrawal have substantially changed such that a new variance request is materially different from the prior request.

(2006 Code, sec. 28-33; Ordinance 09-05-797, sec. 2 (art. I, sec. 33), adopted 5/18/09; Ordinance 15-06-994, sec. 3, adopted 6/2/15)

Sec. 26.02.035 Public hearing on proposed amendments

The planning and zoning commission shall hold a public hearing on any proposed amendment or supplement to this article. After the public hearing is closed, the planning and zoning commission shall immediately make its recommendation and report to the city council. At least 15 days' notice of the time and place of such hearing shall be published in a newspaper having a general circulation in the city. (2006 Code, sec. 28-34; Ordinance 09-05-797, sec. 2 (art. I, sec. 34), adopted 5/18/09)

ARTICLE 26.03 FENCING, WALLS AND SCREENING

Sec. 26.03.001 Purpose

The purpose of this article is to encourage the most appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations in this article are prescribed for the location and type of various screening devices to be used when required in the various zoning districts or in this article in accordance with the following standards. (2006 Code, sec. 28-51; Ordinance 09-05-797, sec. 2 (art. II, sec. 1), adopted 5/18/09)

Sec. 26.03.002 Screening requirements

(a) Screening for residential districts. In the event that a multifamily or manufactured housing district (including planned developments, PDs) sides or backs upon a single-family or duplex residential district, or in the event that a nonresidential district (including PDs) sides or backs upon any type of residential, a solid brick/masonry screening wall of not less than six feet, nor more than eight 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 and protective barrier between the properties. For these required screening walls, and also for screening walls/fences along arterials, ornamental lighting and detailing that are placed on top of the masonry support columns may exceed the maximum eight-foot height limit by up to 24 inches provided that they are decorative in nature and are integrated into (and complementary to) the design of the screening wall, and provided that light fixtures do not illuminate adjacent property or cause a nuisance to adjoining neighbors. Grand entryway features into

subdivisions from an arterial shall be located on private property, and shall be owned and maintained by a private entity. Such features shall not extend over the public right-of-way, and shall be limited to a height of ten feet above grade unless otherwise approved on the screening/landscaping plans by the city council, upon recommendation by the planning and zoning commission. All fences/walls, other than private wood fences on residential lot/tracts, which shall only require a fence permit from the city, and subdivision entryway features shall be properly engineered, and shall be approved by the city engineer and by the city council.

- (1) The owner of the multifamily or manufactured/mobile home property shall be responsible for and shall build and maintain the required wall on the property line dividing the property from the single-family or duplex residential district.
- (2) When screening is required between nonresidential and residential uses, it shall be the responsibility of the nonresidential use to construct and maintain the screening wall.
- (3) Any screening wall or fence required under the provisions of this article or under a specific use permit, planned development district, or other requirement shall be constructed of masonry, reinforced concrete, or other similar suitable permanent materials which do not contain openings, except limited gates for pedestrian access, if approved, and which are finished on both sides with the same or similar materials and colors as the main building on the property that is responsible for the screening wall. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or fence.
- (4) Alternative equivalent screening may be approved through the site plan approval process, article 30.02, division 7 (see the subdivision regulations in chapter 28 for suggested screening alternatives that may be used in lieu of a solid masonry wall).

(b) Screening fence or wall in yard adjacent to public street. In nonresidential, multifamily and manufactured housing districts, no fence or wall shall be erected in any front yard or side yard which is adjacent to a public street unless the fence/wall is required to screen the development from an adjacent residential area. In this case, the screening fence/wall shall be extended out to the street right-of-way line by the developer of the nonresidential, multifamily or manufactured/mobile home development, and the fence/wall shall be finished on both sides in a manner/color that is compatible to the exterior finish materials used on the main buildings, except for a manufactured housing park. Screening fences/walls shall be placed such that they do not impede visibility for vehicles entering or exiting the nonresidential, multifamily or manufactured/mobile home development (see section 30.07.108 for sight visibility requirements).

(c) Permits. All fences and walls require permits.

(d) Sight visibility requirements. See section 30.07.108(a) for sight visibility requirements for fences and screening walls.

(e) Screening of open storage required. Open storage of materials, commodities or equipment (see chapter 30, appendix A-3, use regulations, for zoning districts permitting outside storage) shall be screened with a minimum six-foot fence or wall, and shall not be visible from the street or from adjacent property. (See definition of "outside storage" in section 30.01.006).

(f) Standards for screening of open storage. In districts permitting open storage, screening shall be required only for those areas used for open storage. A six-foot screening fence or wall shall be provided and maintained at the property line adjacent to the area to be screened by one or a combination of the following methods:

- (1) Solid masonry (brick, concrete block or concrete panels).
- (2) Wrought iron with solid landscape screening.

- (3) Alternate equivalent screening may be approved through the site plan approval process under article 30.02, division 7.

No outside storage may exceed the height of the fence. Outside storage exceeding eight feet shall require a specific use permit.

(g) Refuse storage areas. Refuse storage areas which are not within a screened rear service area and which are visible from a public right-of-way for all nonresidential, multifamily and manufactured housing park uses shall be visually screened by a minimum six-foot solid masonry wall on at least three sides (see illustration 11 for refuse container enclosure diagrams, printed at the end of chapter 30). The fourth side, which is to be used for garbage pickup service, shall provide a solid gate to secure the refuse storage area. Alternate equivalent screening methods may be approved through the site plan approval process, article 30.02, division 7. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies. Adequate reinforced paved areas shall be provided for refuse facilities and their approaches for loading and unloading, as per illustration 11.

(h) Ground-mounted utility structures. Plans and specifications for screening and/or fencing around ground-mounted utility structures shall be approved in writing by the affected utility company, and shall be submitted, along with an approval letter/document from the utility company, to the city manager, or his designee, for review and approval prior to construction of said screening/fencing.

(2006 Code, sec. 28-52; Ordinance 09-05-797, sec. 2 (art. II, sec. 2), adopted 5/18/09)

Sec. 26.03.003 Fences in residential areas

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

Build. Construct, erect or place, or cause, suffer or allow another to construct, erect or place.

Fence. Any structure which exceeds 18 inches in height above the nearest grade and which encloses, partitions or divides any yard as defined in chapter 30.

Residentially zoned. Property zoned single-family, patio home, or single-family attached, or any property zoned as a planned development district (hereafter PD district) where the base zoning within the PD district is one of the foregoing.

Zoning ordinance. The city zoning ordinance, as set out in chapter 30, as amended.

(b) Height limit. No fence shall be built so as to exceed eight feet in height on any residentially zoned property nor shall a fence be built so as to exceed ten feet on any nonresidential property.

(c) Measurement of fence height. Fence height shall be measured from the grade adjacent to the fence from the applicant's side of the fence. If the fence is constructed on top of a retaining wall it shall be measured from the top of the retaining wall.

(d) Depth of posts. Posts must be set at a depth according to the following:

Fence Height	Post Depth
8 feet or higher	3 feet
6 feet	2 feet
4 feet or lower	18 inches

(e) Permit requirement; inspection and maintenance.

- (1) Permit requirement; minor repairs. It shall be unlawful for any person to construct or rebuild a fence on any lot without having first obtained a fence permit from the permit department. All

fences require a permit; however, no permit is required for repairs minor in nature (damaged, missing slats, blown over, or as determined by the city). All damaged, removed, blown down, or missing portions of such fence shall be replaced, stood up, or repaired with comparable materials of a comparable color to the remaining portion of such fence. Minor repairs must be performed within a reasonable amount of time as determined by the city or the repair will be subject to obtaining a permit. Adequate plans and specifications, as determined by the city, must accompany each application for a permit.

- (2) Inspection and maintenance. When any fence is completed, it must be inspected. The permit department shall be notified upon completion of the fence. The building official (or his designee) will issue a card of acceptance if the fence complies with the provisions of this article, or it will be rejected. All fences constructed under the provisions of this article shall be maintained so as to comply with the requirements of this article at all times. Fences shall be maintained by the owner or person in charge of the property in as near as possible the condition of such fence when installed and accepted as provided herein, and will be subject to code compliance notification and issuance of a citation if not maintained in such condition. Fences shall be maintained as follows:
 - (A) Such fence shall not be out of vertical alignment more than 20 degrees.
 - (B) All damaged, removed or missing portions of such fence shall be replaced or repaired with comparable materials of a comparable color to the remaining portion of such fence.
 - (C) If a new fence, section of fence or fence replacement is proposed to be composed of wood, all wood elements (posts, fence panels, etc.) used shall be pressure-treated with the chemicals alkaline copper quaternary (ACQ), copper azole (CA) or micronized copper quaternary (MCQ). In addition, non-pressure-treated cedar and redwood are acceptable.
- (3) Masonry columns. All masonry columns greater than four feet in height shall require an engineered stamped design.
- (f) Appeals and special exceptions.
 - (1) An appeal from a decision of the building official under the terms of this article shall be made to the planning and zoning commission.
 - (2) When in its judgment the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured, the zoning board of adjustment may authorize special exceptions to the regulations provided in this article in order to permit reasonable development and improvement of property where the literal enforcement of the regulations would result in an unnecessary hardship.
- (g) Prohibited materials.
 - (1) No person shall build any fence composed, in whole or in part, of:
 - (A) Barbed wire or razor wire;
 - (B) Welded or woven wire such as chicken wire, hog wire, stockade panels and similar agricultural wires (does not include chain link);
 - (C) Used materials (as defined by the city);
 - (D) An electric fence;
 - (E) Galvanized sheetmetal, corrugated metal, or corrugated fiberglass; or

- (F) Materials not approved for exterior exposure.
- (2) The following are affirmative defenses to a violation of this section:
 - (A) On a lot that has an area of one and one-half acres or more, provided that the fence is not otherwise prohibited by any other ordinance or law, a fence may be composed of barbed wire, welded wire or woven wire, or both, and may include an electric fence if the electric fence charging device is approved by a nationally recognized testing laboratory.
 - (B) In a residential zone, an electric fence may be located only within the side and rear yard, all electrified components must be located a minimum of six inches inside another fence (which must be a minimum of 36 inches in height), the electric fence charging device must be approved by a nationally recognized testing laboratory and the fence shall otherwise comply with all applicable laws and ordinances.
 - (C) This section does not prohibit the use of corrugated metal material with a minimum 26 gauge and one-inch corrugation when commercially designed and engineered as a fencing material as a component of a modular, prefabricated fence.
 - (D) When mandated by state or federal statute.
 - (E) When required for public safety for local governmental facilities.
- (h) Construction or protrusion on public property. No fence or any part of such fence shall be constructed upon or caused to protrude over public property. All fences must be maintained in a plane so as not to overhang public property.
- (i) Restrictions in certain locations.
 - (1) Fences in easements. No fence shall be located within any easement except by prior written approval of those agencies having interest in such easement. Fences within utility, surface drainage (including inlets and concrete flumes) and maintenance easements must be constructed with ornamental iron and removable fence sections. All vertical bars must be a minimum of three inches on center and must not exceed 3-15/16 inches on center. The maximum diameter of all vertical and horizontal bars shall be two inches. The minimum clearance between the bottom of the fence and grade is two inches. Fences within drainage easements that serve underground reinforced concrete pipe (i.e., non-surface drainage) must be constructed with metal posts and with removable fence sections.
 - (2) Attachment to screening wall. Where subdivisions are platted so that the rear or side yards of single-family residential lots are adjacent to a public street on which a screening wall has been provided, no wall or fence shall be attached to the screening wall.
- (j) Fences in front yard. No fence shall be built within the required front yard, as defined in the zoning ordinance, except for lots that have an area of one and one-half acres or greater. Front yard fencing shall be limited to four feet in height and shall not be of solid construction, providing that at least 50 percent of the fence be open.
- (k) Gates.
 - (1) Any fence built so as to enclose an area shall provide a gate or other opening in the fence of at least three feet in width and with a minimum headroom clearance of six feet, eight inches in height.
 - (2) Gates for vehicular use must be a minimum of 24 feet from the property line for all types of property other than residential.

- (l) Wind load requirement. Fences must be able to structurally support fencing materials for a 70-mile-per-hour wind speed.
- (m) Swimming pool fences. Fences around swimming pools shall be in conformance with this section and with article 24.07.
- (n) Sight visibility. See section 30.07.108(a) for sight visibility requirements for fences and screening walls.
- (o) Special-purpose fencing. Special-purpose fencing, such as fencing around tennis courts, dog runs, etc., is permitted. Special-purpose fencing shall comply with the requirements as set forth in this section. Smooth, non-climbable two-inch by four-inch mesh on metal posts will be acceptable behind the building line. Any other materials require approval from the building official.
- (p) Back-to-back fencing. Back-to-back fencing is not allowed at a distance of less than five feet.
- (q) Nonconforming fences. A fence that does not comply with the requirements of this article as of May 27, 2004, shall be allowed to remain unless the fence is replaced, destroyed or damaged to the extent of 60 percent or more of the value of the structure, in which event the right to maintain the structure shall terminate.
- (r) Height transition. Where a privacy fence and a fence or wall that screens a thoroughfare or public street of different heights meet or connect, a stair-step transition/effect shall be provided to match the height of the fence that is lower in height. Such transition must be in lengths of no less than eight feet for each one foot of change of elevation and as approved by the city.
- (s) Fence post visibility. Where a privacy fence faces a public right-of-way, the fence must be built with the posts on the inside of the property and may not be facing the public right-of-way.
- (t) Approval by homeowners' association. Approval of a fence application does not constitute or supersede approval by the applicant's homeowner's association.

(2006 Code, sec. 28-53; Ordinance 09-05-797, sec. 2 (art. II, sec. 3), adopted 5/18/09; Ordinance 13-02-947, sec. 12, adopted 2/19/13; Ordinance 13-11-962, sec. 2, adopted 11/19/13; Ordinance adopting 2015 Code)

Sec. 26.03.004 Variance procedure

- (a) The planning and zoning commission shall hold a public hearing on any request for a variation or exception to the standards provided by this article. The planning and zoning commission may not recommend a variation or exception unless the planning and zoning commission determines that the variation or exception will not substantially alter the intent of the standards established by this article.
- (b) All recommendations of the planning and zoning commission under this article shall be forwarded to the city council. When the planning and zoning commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.

(2006 Code, sec. 28-54; Ordinance 09-05-797, sec. 2 (art. II, sec. 4), adopted 5/18/09)

ARTICLE 26.04 LIGHT AND GLARE

Sec. 26.04.001 Glare

- (a) Any use shall be operated so as not to produce glare or direct illumination across the bounding property line from a visible source of illumination of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected that

acting together the light beam is controlled and not directed across any bounding property line above a height of three feet.

(b) The allowable maximum intensity measured at the property line abutting a residential use shall be 0.5 footcandles.

(2006 Code, sec. 28-75; Ordinance 09-05-797, sec. 2 (art. III, sec. 1), adopted 5/18/09)

Sec. 26.04.002 Parking and loading area lighting

(a) All off-street parking areas for nonresidential uses in nonresidential districts which are used after dark shall be illuminated beginning at sunset and shall remain continually illuminated until sunrise. The level of intensity of illumination, measured at a height of three feet above the pavement surface, shall be a minimum average of 2.0 footcandles, and a minimum level at any point of at least 0.66 footcandles. Illumination shall be uniformly distributed throughout the lighted area at an average-to-minimum uniformity ratio of 3:1.

(b) The mounting height of luminaire fixtures shall not exceed the following heights:

<u>Width of Parking Area</u>	<u>Maximum Luminaire Mounting Height</u>
0 - 60 feet	14 feet
61 - 102 feet	20 feet
103 or greater feet	30 feet

(c) Standards, poles and fixtures shall be of a single color, compatible with the architecture of the building.

(d) All lighting fixtures shall be restricted to down-light, cut-off types or shielded.

(e) Low-pressure sodium lighting or lighting of similar color shall not be used.

(f) All efforts should be made to install energy efficient lighting.

(g) If the establishment is not open, [or during] non-operating hours, lighting should be minimal; for security purposes and entries.

(2006 Code, sec. 28-76; Ordinance 09-05-797, sec. 2 (art. III, sec. 2), adopted 5/18/09; Ordinance 13-02-947, sec. 13, adopted 2/19/13)

Sec. 26.04.003 Walkway lighting

(a) All outdoor pedestrian areas and uncovered walkways, separate from parking or buildings but essential to the nighttime operation of nonresidential uses within nonresidential districts, shall be continually illuminated between sunset and sunrise. The level of intensity of illumination, measured at the walkway surface, shall be a minimum average of 1 footcandle, distributed at an average-to-minimum uniformity ratio of 5:1.

(b) The mounting height of luminaire fixtures shall not exceed 12 feet.

(c) Pole- and wall-mounted fixtures mounted above six feet shall be of a down-light or cut-off type.

(2006 Code, sec. 28-77; Ordinance 09-05-797, sec. 2 (art. III, sec. 3), adopted 5/18/09; Ordinance 13-02-947, sec. 14, adopted 2/19/13)

Sec. 26.04.004 Accent lighting

Up-lighting shall be concealed or otherwise positioned in such a manner that the light source cannot be seen from any property line of the site on which the light is located. (2006 Code, sec. 28-78; Ordinance 09-05-797, sec. 2 (art. III, sec. 4), adopted 5/18/09)

Sec. 26.04.005 Security lighting

- (a) Pole- and wall-mounted fixtures mounted above six feet shall be of a down-light or cut-off type.
- (b) If a rear yard security light is mounted higher than ten feet, it shall be placed at the property line and directed away from adjacent properties.

(2006 Code, sec. 28-79; Ordinance 09-05-797, sec. 2 (art. III, sec. 5), adopted 5/18/09)

Sec. 26.04.006 Recreational area lighting

- (a) Lighting for recreational uses such as athletic courts and fields may employ fixtures mounted in excess of the heights described in this article, subject to the approval of the city.

(b) Where recreational uses are adjacent to residential uses, separation by streets notwithstanding, and such recreational use is illuminated in such a manner as to produce a light intensity in excess of 0.5 footcandles at the property line of the residential use, or where the light source is exposed to the residential use, live screening consisting of a variety of tree which normally grows to or in excess of a height of 30 feet shall be planted no more than 30 feet on center along the property line abutting the residential use. Further, the tree variety shall maintain a crown width sufficient to form a continuous screen at heights between ten feet and 30 feet above grade. Such trees shall be a minimum of one-half the required height at the time of planting.

(2006 Code, sec. 28-80; Ordinance 09-05-797, sec. 2 (art. III, sec. 6), adopted 5/18/09; Ordinance 13-02-947, sec. 15, adopted 2/19/13)

Sec. 26.04.007 Thoroughfare lighting

Lighting provided by governmental entities on public thoroughfares is expressly exempted from this section. (2006 Code, sec. 28-81; Ordinance 09-05-797, sec. 2 (art. III, sec. 7), adopted 5/18/09)

Sec. 26.04.008 Maintenance of fixtures and supports

All fixtures and supports shall be painted or otherwise treated to resist rust and corrosion and shall be maintained in an attractive condition and in a manner compatible with the surrounding architecture. (2006 Code, sec. 28-82; Ordinance 09-05-797, sec. 2 (art. III, sec. 8), adopted 5/18/09)

Sec. 26.04.009 Variance procedure

- (a) The planning and zoning commission shall hold a public hearing on any request for a variation or exception to the standards provided by this article. The planning and zoning commission may not recommend a variation or exception unless the planning and zoning commission determines that the variation or exception will not substantially alter the intent of the standards established by this article.

(b) All recommendations of the planning and zoning commission under this article shall be forwarded to the city council. When the planning and zoning commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.

(2006 Code, sec. 28-83; Ordinance 09-05-797, sec. 2 (art. III, sec. 9), adopted 5/18/09)

ARTICLE 26.05 PERFORMANCE STANDARDS**Sec. 26.05.001 Generally**

In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by county, state and/or federal agencies. All uses, including those which may be allowed by planned development or special use permit, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, and vibration, and glare as set out in article 26.04 of this chapter. (2006 Code, sec. 28-101; Ordinance 09-05-797, sec. 2 (art. IV, sec. 1), adopted 5/18/09)

Sec. 26.05.002 Environmental legal requirements to be observed

All federal and state pollution, noise, and requirements for toxic waste disposal shall be observed by all uses, including those which may be allowed by planned development or special use permit. (2006 Code, sec. 28-102; Ordinance 09-05-797, sec. 2 (art. IV, sec. 2), adopted 5/18/09)

Sec. 26.05.003 Smoke and particulate matter

No operation or use shall cause, create, or allow the emission for more than three minutes in any one hour of air contaminants which at the emission point or within the bounds of the property are:

- (1) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed by the ASTM, except that, when the presence of uncombined water is the only reason for failure to comply or when such contaminants are emitted inside a building which prevents their escape into the atmosphere, the standards specified in 3-1302-1 and 3-1302-2 shall not apply.
- (2) The emission of particulate matter from all sources shall not exceed 0.5 pounds per acre of property within the plant site per any one hour.
- (3) Open storage and open processing operations, including on-site transportation movements which are the source of wind- or air-borne dust or other particulate matter, or which involve dust or other particulate air contaminants generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage or sandblasting, shall be so conducted that dust and other particulate matter so generated is not transported across the boundary line of the tract on which the use is located in concentrations exceeding four grains per 1,000 cubic feet of air.

(2006 Code, sec. 28-103; Ordinance 09-05-797, sec. 2 (art. IV, sec. 3), adopted 5/18/09)

Sec. 26.05.004 Odorous matter

(a) No use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the bounding property line or any point beyond the tract on which such use or operation is located.

(b) The odor threshold as herein set forth shall be determined by observation by a person or persons. In any case where uncertainty may arise or where the operator or owner of an odor-emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures specified by American Society for Testing Materials ASTM D 1391-57 entitled "Standard Method for Measurement of Odor in Atmospheres" shall be used, and a copy of ASTM D 1391-57 is hereby incorporated by reference.

(2006 Code, sec. 28-104; Ordinance 09-05-797, sec. 2 (art. IV, sec. 4), adopted 5/18/09)

Sec. 26.05.005 Fire or explosive hazard material

(a) No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted, except that chlorates, nitrates, perchlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the fire chief of the city.

(b) The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the city fire code or are approved by the fire chief.

(2006 Code, sec. 28-105; Ordinance 09-05-797, sec. 2 (art. IV, sec. 5), adopted 5/18/09)

Sec. 26.05.006 Toxic and noxious matter

No operation or use shall emit a concentration across the boundary property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed ten percent of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the department of state health services in "Threshold Limit Values Occupational Health Regulation No. 3," a copy of which is hereby incorporated by reference. (2006 Code, sec. 28-106; Ordinance 09-05-797, sec. 2 (art. IV, sec. 6), adopted 5/18/09)

Sec. 26.05.007 Vibration

No operation or use shall at any time create earth-borne vibrations which when measured at the bounding property line of the source operation exceed the limits of displacement set forth in the following table in the frequency ranges specified:

<u>Frequency (Cycles Per Second)</u>	<u>Displacement (in Inches)</u>
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

(2006 Code, sec. 28-107; Ordinance 09-05-797, sec. 2 (art. IV, sec. 7), adopted 5/18/09)

Sec. 26.05.008 Variance procedure

(a) The planning and zoning commission shall hold a public hearing on any request for a variation or exception to the standards provided by this article. The planning and zoning commission may not recommend a variation or exception unless the planning and zoning commission determines that the variation or exception will not substantially alter the intent of the standards established by this article.

(b) All recommendations of the planning and zoning commission under this article shall be forwarded to the city council. When the planning and zoning commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.

(2006 Code, sec. 28-108; Ordinance 09-05-797, sec. 2 (art. IV, sec. 8), adopted 5/18/09)

ARTICLE 26.06 EXTERIOR CONSTRUCTION AND DESIGN**Sec. 26.06.001 Masonry construction materials; glass walls**

(a) Definition. For the purpose of this section, the following definition shall apply:

Masonry construction. Shall include all construction of stone material, brick material, concrete masonry units, or concrete panel construction, which is composed of solid, cavity, faced, or veneered-wall construction. Synthetic masonry materials are prohibited.

(b) Standards for masonry construction. The standards for masonry construction types are listed below:

- (1) Stone material. Masonry construction using stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all-weather stone. Cut stone and dimensioned stone techniques are acceptable. Synthetic stone is not acceptable. Stone veneer is acceptable with a minimum thickness of three and five-eighths inches.
- (2) Brick material. Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material which meets the latest version of ASTM standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), and shall be Severe Weather (SW) grade, and type FBA or FBS or better. Unfired or underfired clay, sand, or shale brick are not allowed. Brick veneer is acceptable with a minimum thickness of three inches.
- (3) Concrete masonry units. Concrete masonry units used for masonry construction shall meet the latest version of the following applicable specifications; ASTM C90, Standard Specification for Hollow Load Bearing Concrete Masonry Units; ASTM C145, Standard Specification for Solid Load Bearing Masonry Units; ASTM C129, Standard Specification for Hollow and Solid Nonload Bearing Units. Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish as approved by the city council. Lightweight concrete block or cinderblock construction is not acceptable as an exterior finish. Colored concrete masonry units are prohibited.
- (4) Concrete panel construction. Concrete finish, precast panel, tilt wall, or cementitious composite reinforced panel construction shall be painted, fluted, or exposed aggregate. Smooth or untextured concrete finishes are not acceptable.

(c) Glass and metal standards. Glass and metal standards are as follows: Glass walls shall include glass curtain walls or glass block construction. "Glass curtain wall" shall be defined as an exterior wall which carries no structural loads, and which may consist of the combination of metal, glass, or other surfacing material supported in a metal framework.

(2006 Code, sec. 28-131; Ordinance 09-05-797, sec. 2 (art. V, sec. 1), adopted 5/18/09; Ordinance 13-02-947, sec. 16, adopted 2/19/13)

Sec. 26.06.002 Design standards

The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new, altered or repaired construction occurring within the city.

- (1) Residential buildings and structures.
 - (A) Fire-resistant construction. All residential buildings and structures shall be of exterior fire-resistant construction having at least 85 percent of the total exterior walls above grade level, excluding doors and windows, constructed of brick, stone, brick veneer, or stone veneer, in accordance with the city's building and fire codes.

- (B) SFA and MF districts. All principal buildings and structures located in the SFA and MF districts shall be of exterior fire-resistant construction having at least 85 percent of the total exterior walls, excluding doors and windows, constructed of brick, stone, brick veneer, [or] stone veneer in accordance with the city's building and fire codes.
- (C) Concrete or metal exterior construction. Concrete or metal exterior construction is not permitted on any residential structure.
- (D) Exposed foundation. The concrete foundation of any building or structure may not be exposed more than two feet from the final grade.
- (E) Exemptions.
 - (i) Barns or other accessory buildings in the agricultural (AG) zoning district and SF-E estate district, or located on property of five acres or more, provided that such barns are used solely for agricultural purposes as distinguished from commercial or industrial purposes, shall be exempt from the provisions of this section;
 - (ii) Mobile homes otherwise lawfully existing under the provisions of chapter 30 shall also be excluded from the provisions of this section;
 - (iii) Historic structures (with a local, state or national designation/registry as an historic structure);
 - (iv) Accessory building in a single-family, duplex or single-family attached zoning district that has less than 500 square feet of floor area;
 - (v) Accessory and maintenance buildings (any size) for a public golf course, a public or parochial school that has less than 500 square feet, or any city facility;
 - (vi) Temporary construction buildings and field offices (provided that such facilities are legally permitted by the city for a specific period of time, and provided that they are completely removed from the premises upon expiration of the permit or upon completion of construction, whichever occurs first); temporary sales offices shall be permitted with the first model home, provided that sales office is completely removed from the premises upon expiration of the permit or upon completion of construction; and
 - (vii) Structures in existence on May 27, 2004, and any addition to those structures that does not exceed 25 percent of the heated and cooled square footage of the structure as measured on May 27, 2004.
- (F) Roofs. Roof materials shall be composition (30-year), standing seam metal, terra-cotta tiles, concrete tiles or slate in muted colors. Wood shingle, shake, and metal roofing systems associated with agricultural or industrial buildings are prohibited. Only flat pan, standing seam metal roof materials are allowed with a factory finish of an approved color. Natural metal roofs are not allowed, whether galvanized or metal aluminum. Minimum roof pitch shall be at least 8:12, unless otherwise stated in the applicable zoning district or PD ordinance, and except for "Santa Fe" (with a flat roof and highly articulated parapet that conceals the roof and any roof-mounted equipment), "Texas ranch house" (with low pitched roofs, large eaves/overhangs, rambling design), or other uniquely styled home. Any proposed addition to an existing single-family structure shall have a minimum roof pitch of 4:12.

- (G) Exterior color. The exterior color of all residential structures must be muted, rustic earth tones. Bright colors like pinks, purples, and those classified as primary colors are expressly prohibited.

(2) Nonresidential structures.

- (A) Fire-resistant masonry construction. All nonresidential structures, including parking structures, shall be of exterior fire-resistant construction having at least 90 percent of the total exterior walls above grade level, excluding doors and windows, and a minimum of 80 percent for any story above one, constructed of masonry in accordance with the city's building and fire codes. Strict adherence to this requirement shall not be such as to prevent architectural creativity.

- (B) Other permitted exterior construction materials. The following materials are permitted materials for exterior construction:

- (i) Stone.
- (ii) Granite.
- (iii) Marble.
- (iv) Other stone (e.g., limestone).
- (v) Glass, permitted as 30 percent or less of the exterior wall.
- (vi) Brick.

Use of other exterior construction materials may be permitted by the city council at the time of site plan approval.

- (C) Restricted materials for exterior construction. The following materials for exterior construction shall not exceed 25 percent:

- (i) Painted wood.
- (ii) Concrete (including painted, pressed or stained concrete).
- (iii) Glass, when over 30 percent of the exterior wall.
- (iv) Synthetic materials.

- (D) Exposed foundation. The concrete foundation of any building or structure may not be exposed more than two feet from the final grade.

- (E) Roofs. Any roof materials that are visible from a public street shall be comprised of architectural/dimensional, composition shingle (30-year minimum), flat pan standing seam metal roofing (only with a factory baked-on muted color finish; no bright colors or natural-colored metal roofing allowed), or terra-cotta or slate tile in muted colors. Minimum roof pitch of a gabled or otherwise pitched roof shall be at least 8:12, unless otherwise stated in the applicable zoning district or PD ordinance, and except for flat-roofed structures that shall have a highly articulated parapet with a minimum length of two feet and a maximum length of 100 feet that conceals the roof and any roof-mounted equipment.

- (F) Exterior color. The exterior color of all nonresidential structures shall be muted, rustic earth tones. Bright colors like pinks, purples, and those classified as primary colors are expressly prohibited.
 - (G) Elevated water storage tanks and pump stations. All water storage facilities which serve the public shall be designed and painted to complement natural surroundings. All public water storage facilities shall be placed, to the extent possible, so as to have minimal negative impact on surrounding areas and shall be painted earth-tone, natural colors. The city council shall be authorized to approve alternate color selections if such color(s) are more acceptable with surrounding areas.
 - (H) Temporary construction buildings. Temporary buildings and temporary building material storage areas to be used for construction purposes may be permitted for a specific period of time in accordance with a permit issued by the building official and subject to periodic renewal by the inspector for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices or buildings and material storage areas shall be removed at the satisfaction of the building official.
- (3) Procedure for determining alternative exterior materials.
- (A) All written requests for alternative exterior building materials shall be noted and described on the site plan. If requested by the city, a sample(s) of the proposed exterior finish material(s) may be required to be submitted with the site plan.
 - (B) The city may approve an alternative exterior material if it is determined to be equivalent or better than the exterior materials cited in subsection (2)(B) above as part of the approval of the site plan.
 - (C) Consideration for exceptions to the above requirements shall be based only on the following:
 - (i) Architectural design and creativity.
 - (ii) Compatibility with surrounding developed properties.
 - (D) The request shall be reviewed by the planning and zoning commission, and shall be approved or disapproved by the city council.
- (4) Exterior building design standards.
- (A) Purpose. To ensure the aesthetic value and visual appeal of nonresidential land uses and to ensure that structures relate harmoniously with the land and on a pedestrian, human scale. The architectural character of the built environment should complement the natural landscape and not dominate it. Vertical proportions which exaggerate building height shall be avoided. Building masses shall be broken up horizontally and vertically to provide relief in the facade. It is encouraged that every building reduce its perceived height and bulk by dividing the building into smaller components, and providing both articulation and variation on all building sides.
 - (B) Variation defined. Variation shall refer (for purposes of this section) to a combination of colors, textures, design features, and/or building materials. Variation shall include but not be limited to design features such as recessed windows, awnings, shutters, canopies, balconies, columns, arches and mullions, cornices, belt courses, corbelling, molding, string courses, latticework or ornamentation with vegetation, decorative light fixtures, and other sculpturing of the facade with permitted materials.

- (C) Variation requirements. Variation shall be accomplished as follows:
- (i) A minimum 33 percent of the front and any building side visible from a public roadway shall contain variation. This percentage is reduced to 25 percent of the total square footage of the face of each building side for any face not visible from a public roadway; and
 - (ii) For the front of buildings and any side visible from a public roadway, a minimum of five changes in variation (five textures, five colors and materials) is required, excluding the roof, doors and gutters; the required number of variation or design features is reduced to three changes for all other building sides.
- (D) Articulation defined. Articulation shall be defined (for purposes of this section) as an interruption of the building wall plane with an offset, either a recess or projection of at least four feet, at an angle or arc of between 45 degrees and 135 degrees to the wall plane. Articulation shall include (and be used synonymously with) an offset, inset, relief, recess, setback, or projection.
- (E) Horizontal articulation requirements. Horizontal articulation shall be accomplished as follows:
- (i) Wall planes of 30 feet or less in length do not require horizontal articulation (offsets); and
 - (ii) No wall plane shall extend more than 50 feet in length. Larger buildings shall be divided into modules, preferably not exceeding 30 feet, but permitted up to 50 feet in length, that are expressed three-dimensionally throughout the entire building (modifications to the facade only shall not meet this standard). The building modules should be expressed with at least one of the following:
 - a. A setback in wall planes a minimum of four feet;
 - b. A change in the primary facade material for the extent of the building module; or
 - c. A vertical architectural element such as a change in roof type or other vertical articulation described below.
 - (iii) Alternating use of similar building modules shall not be permitted.
- (F) Vertical articulation requirements. Vertical articulation, as defined above, shall be accomplished as follows:
- (i) By providing varying roof lines for each building mass through the use of pitched roofs with eaves, false pitch roofs with the appearance of true hips and gables from all public rights-of-way, flat roofs with projecting cornices, parapets and other variations in roof heights and angles (excluding mansard roofs);
 - (ii) Except for pitched roof buildings, no less than 30 percent of the roofline distance for each building side shall have vertical articulation of at least two feet or ten percent of the average height of the wall plane, whichever is greater; however, no single run of roofline shall exceed 60 feet in length without a minimum two-foot transition in vertical roofline height; and

- (iii) Except for pitched roof buildings, by vertically articulating and emphasizing all principal building entrances by at least two feet or ten percent of the average height of the wall plane, whichever is greater.
- (G) Facade elevation plan. Facade articulations or offsets shall be shown, along with calculations verifying that the building elevations meet the above requirements, on a building facade elevation plan for all sides, and shall be submitted for planning and zoning commission review and approval by the city council along with the site plan.
- (H) Aesthetic detail. All building sides shall have aesthetic detail including articulation and variation, with architectural elements that provide shadow lines and visual depth (unless substantially screened with landscaping, whereby the landscape screening in itself provides the aesthetic detailing), with a proper maintenance program in place to provide upkeep of landscaping.
- (I) Pedestrian area. Street-level storefronts and building entrances shall be open and inviting to pedestrians. Buildings 10,000 square feet or greater shall have a street/parking-to-building zone of at least 20 feet to be used for sidewalks, including a minimum 15-foot landscaped buffer strip or pedestrian spaces including benches and other seating facilities.
- (J) Entryways. A minimum exterior entryway offset/inset to help delineate a building's main entrance and add variety to the streetscape shall be provided for businesses based on their floor space as follows:
 - (i) Less than 5,000 square feet shall have a minimum entryway area of 15 square feet.
 - (ii) 5,000 to 15,000 square feet shall have a minimum entryway area of 25 square feet.
 - (iii) 15,001 to 30,000 square feet shall have a minimum entryway area of 50 square feet.
 - (iv) Greater than 30,000 square feet shall have a minimum entryway area of 100 square feet.
- (K) Windows. Windows shall be offset by no less than four inches and/or have a perimeter accent border of at least four inches. No section of glass windows shall extend longer in width than 15 feet without a three-foot minimum break.
- (L) Rooftop mechanical equipment. All rooftop mechanical equipment shall be shielded from public view. The parapet must be of equal height to the tallest equipment.
- (M) Buildings on slopes. Building placement on slopes shall not only incorporate stepped massing, but shall also create footprint offsets to save vegetation and natural landforms. Topographical changes shall be reflected by vertical offsets in the massing of buildings wherever possible.
- (N) Roll-up doors. Garage-style roll-up doors shall not face public roadways. When used, they must be screened from adjacent properties and public view, unless used for an outdoor patio or bar.
- (O) Outparcel buildings. Every outparcel building, liner building or other building set between the street right-of-way and a larger adjacent building shall include the architectural detailing set forth above on all sides on the building, including those that face internal parking areas.
- (P) Irrigation systems. Irrigation systems must include rain and freeze sensors.

(5) Accessory buildings.

- (A) In the agricultural (AG) zoning district: See subsection (1)(E)(i) of this section regarding exceptions.
- (B) In a single-family, duplex or single-family attached zoning district: Accessory buildings that have over 500 square feet of floor area shall conform to the minimum exterior construction standards for the main building on the lot/tract, tract or site, and shall be compatible in exterior finishes and colors as the main building, unless located on property of one-half acre or more.
- (C) In a multifamily or nonresidential zoning district: Accessory buildings (any size) shall conform to the minimum exterior construction standards for the main building on the lot/tract, tract or site, and shall be architecturally compatible in design and constructed of the same exterior finishes and colors as the main building.

(2006 Code, sec. 28-132; Ordinance 09-05-797, sec. 2 (art. V, sec. 2), adopted 5/18/09; Ordinance 13-02-947, sec. 16, adopted 2/19/13)

Sec. 26.06.003 Variance procedure

(a) The planning and zoning commission shall hold a public hearing on any request for a variation or exception to the standards provided by this article. The planning and zoning commission may not recommend a variation or exception unless the planning and zoning commission determines that the variation or exception will not substantially alter the intent of the standards established by this article.

(b) All recommendations of the planning and zoning commission under this article shall be forwarded to the city council. When the planning and zoning commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.

(2006 Code, sec. 28-133; Ordinance 09-05-797, sec. 2 (art. V, sec. 3), adopted 5/18/09; Ordinance 13-02-947, sec. 16, adopted 2/19/13)

ARTICLE 26.07 LANDSCAPE STANDARDS**Sec. 26.07.001 Definitions**

Artificial turf. A surface of synthetic fibers made to look like natural grass. (Ordinance 14-08-981, sec. 2, adopted 8/5/14)

Sec. 26.07.002 Purpose

Landscaping is accepted as adding value to property and is in the interest of the general welfare of the city. The provision of landscaped areas also serves to increase the amount of a property that is devoted to pervious surface area, which, in turn, helps to reduce the amount of impervious surface area, stormwater runoff, and consequent non-point pollution in local waterways. Therefore, landscaping is hereafter required of new development. (2006 Code, sec. 28-151; Ordinance 09-05-797, sec. 2 (art. VI, sec. 1), adopted 5/18/09)

Sec. 26.07.003 Scope; enforcement

(a) The standards and criteria contained within this article are deemed to be minimum standards and shall apply to all new, or altered, exceeding 30 percent of the original floor area, construction occurring within the city. Additionally, any use requiring a specific use permit or a PD zoning designation must comply with these landscape standards unless special landscaping standards are otherwise provided for in the ordinance establishing

the SUP or PD district. The provisions of this article shall be administered and enforced by the city manager or his designee. The landscape standards in this article apply to nonresidential and multifamily developments, including uses such as schools and churches within a residential zoning district, and minimal front yard landscaping standards apply to single-family and duplex residential developments and individual lot/tracts.

(b) If, at any time after the issuance of a certificate of occupancy, the approved landscaping is found to be not in conformance with the standards and criteria of this article, the city manager, or his designee, shall issue notice to the owner, citing the violation and describing what action is required to comply with this article. The owner, tenant or agent shall have 30 days from the date of said notice to establish/restore the landscaping, as required. If the landscaping is not established/restored within the allotted time, then such person shall be in violation of this article.

(2006 Code, sec. 28-152; Ordinance 09-05-797, sec. 2 (art. VI, sec. 2), adopted 5/18/09)

Sec. 26.07.004 Issuance of permits and certificate of occupancy

(a) No permits shall be issued for building, paving, grading or construction until a detailed landscape plan is submitted and approved by the city manager or his designee, along with the site plan and engineering/construction plans. A landscape plan shall be required as part of the site plan submission. The landscape plan may be shown on the site plan (provided the site plan remains clear and legible) or may be drawn on a separate sheet. Prior to the issuance of a certificate of occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the landscape plan.

(b) In any case in which a certificate of occupancy is sought at a season of the year in which the city manager, or his designee, determines that it would be impractical to plant trees, shrubs or ground cover, or to successfully establish turf areas, a temporary certificate of occupancy may be issued provided a letter of agreement from the property owner is submitted that states when the installation shall occur. All landscaping required by the landscaping plan shall be installed within six months of the date of the issuance of the certificate of occupancy.

(2006 Code, sec. 28-153; Ordinance 09-05-797, sec. 2 (art. VI, sec. 3), adopted 5/18/09)

Sec. 26.07.005 Landscape plan

(a) Prior to the issuance of a building, paving, grading or construction permit for any use, a landscape plan shall be submitted to the planning and zoning commission. The planning and zoning commission shall review such plans and shall provide the city council with a recommendation and the city council shall take final action on such plans. If the plans are in accordance with the criteria of these regulations, an action of approval shall be taken. If the plans are not in conformance, they shall be disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.

(b) Landscaping plans shall be prepared by a person knowledgeable in plant material usage and landscape design (e.g., landscape architect, landscape contractor, landscape designer, etc.) and shall contain the following minimum information:

- (1) Minimum scale of one inch equals 50 feet; show scale in both written and graphic form.
- (2) Location, size and species of all trees to be preserved (do not use "tree stamps" unless they indicate the true size and location of trees).
- (3) Location of all plant and landscaping material to be used, including plants, paving, benches, screens, fountains, statues, earthen berms, ponds (to include depth of water), topography of site, or other landscape features.
- (4) Species and common names of all plant materials to be used.
- (5) Size of all plant material to be used (container size, planted height, etc.).

- (6) Spacing of plant material where appropriate.
- (7) Layout and description of irrigation, sprinkler, or water systems including location of water sources and rain and freeze sensors.
- (8) Description of maintenance provisions.
- (9) Name and address of the person responsible for the preparation of the landscape plan.
- (10) North arrow/symbol, and a small map showing where the property is located.
- (11) Date of the landscape plan.
- (12) The plan shall also be provided electronically and in color.

(2006 Code, sec. 28-154; Ordinance 09-05-797, sec. 2 (art. VI, sec. 4), adopted 5/18/09; Ordinance 13-02-947, sec. 17, adopted 2/19/13)

Sec. 26.07.006 General standards

The following criteria and standards shall apply to landscape materials and installation:

- (1) All nonpaved surfaces shall be completely covered with living plant material. Landscaping materials such as wood chips and gravel may be used under trees, shrubs and other plants, but shall not comprise a significant portion of the total pervious surface area.
- (2) Plant materials shall conform to the standards of the approved plant list for the city (see section 26.08.002 for the approved plant list referenced in that section) and the current edition of the “American Standard for Nursery Stock” (as amended), published by the American Association of Nurserymen. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects.
- (3) Trees shall have an average crown spread of greater than 15 feet at maturity. Trees having a lesser average mature crown of 15 feet may be substituted by grouping the same so as to create the equivalent of 15 feet of crown spread. Large trees shall be a minimum of three inches in caliper (measured four feet above the ground) and seven feet in height at time of planting. Small ornamental trees shall be a minimum of one and one-half inches in caliper and five feet in height at time of planting. All new trees shall be provided with a permeable surface under the dripline a minimum of five feet by five feet diameter.
- (4) Shrubs not of a dwarf variety shall be a minimum of two feet in height when measured immediately after planting. Hedges, where installed for screening purposes, shall be planted and maintained so as to form a continuous 75 percent visual screen which will be at least six feet high within three years after time of planting, except for parking lot/tract/headlight screens, which shall form a continuous, solid visual screen three feet high within two years after planting.
- (5) Vines not intended as ground cover shall be a minimum of two feet in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet landscape screening requirements as set forth.
- (6) Grass areas shall be sodded, plugged, sprigged, hydro-mulched and/or seeded, except that solid sod shall be used in swales, earthen berms or other areas subject to erosion.
- (7) Ground covers used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonably completed coverage within one year of planting.

- (8) All landscaped areas shall be equipped with an automatic underground irrigation system with freeze and moisture sensors to prevent watering at inappropriate times. Landscaped areas having less than ten square feet in area may be irrigated by some other inconspicuous method. If appropriate xeriscape planting techniques are utilized, the city council may waive the requirement for an underground irrigation system at the time of site plan approval. However, the landscaping shall be required to be maintained in a healthy, living and growing condition, and any irrigation devices shall not be visible from public streets or walkways.
- (9) Earthen berms shall have side slopes not to exceed 33.3 percent (three feet of horizontal distance for each one foot of vertical height). All berms shall contain necessary drainage provisions as may be required by the city engineer.
- (10) The installation or construction of artificial turf in or on any yard within the city such that any portion of said turf is visible from the city's streets, sidewalks or easements is prohibited.
- (11) Any installation or construction of artificial turf must be permitted prior to any work being done in the city and will be reviewed and inspected to ensure drainage remains as approved at time of original yard installation.
- (12) Any property owner that has installed artificial turf on their property prior to August 1, 2014, is hereby grandfathered.

(2006 Code, sec. 28-155; Ordinance 09-05-797, sec. 2 (art. VI, sec. 5), adopted 5/18/09; Ordinance 14-08-981, sec. 3, adopted 8/5/14)

Sec. 26.07.007 Minimum requirements for nonresidential and multifamily developments

(a) For all nonresidential and multifamily developments, including schools, churches, day care facilities, and other similar uses in a residential district, at least 20 percent of the lot/tract area shall be pervious, permanently landscaped area. For corner lot/tracts, a 600 square foot landscaped area shall be provided at the street intersection, which can be counted toward the 20 percent requirement.

(b) A minimum 25-foot landscaped street buffer adjacent to the right-of-way of any arterial (type B or larger) is required for the first 250 feet from the beginning (i.e., tangent) point of the street corner radius. Beyond the first 250 feet, the landscaped street buffer may either continue at the 25-foot width (developer's option), or it shall transition down to a required width of 15 feet along the remainder of the arterial frontage (minimum length of transition shall be 100 feet). A minimum 15-foot landscaped street buffer shall be required along any street frontage for any other nonresidential or multifamily development (including schools, churches, day care facilities, and other similar uses in a residential district). Corner lot/tracts fronting two arterials shall provide the appropriate required landscape buffer on both street frontages. Two large shade trees and four small ornamental trees shall be required per 50 linear feet (or portion thereof) of street buffer frontage. Trees should be grouped or clustered to facilitate site design and to provide an aesthetically pleasing, natural-looking planting arrangement. The landscaped street buffer area may be included in the required landscape area percentage.

(c) Landscape areas within parking lot/tracts should generally be at least one parking space in size, with no landscape area less than 50 square feet in area. Landscape areas shall be no less than five feet wide, shall equal a total of at least 32 square feet per parking space, and shall be dispersed throughout the parking area (i.e., not confined to the perimeter). There shall be a landscaped area with at least one large shade tree within 60 feet of every parking space. There shall be a minimum of one large shade tree, a minimum of five-inch caliper, planted within the parking area for every ten parking spaces for parking lot/tracts having more than 20 spaces. Within parking lot/tracts, landscape areas should be located to define parking areas and to assist in clarifying appropriate circulation patterns. Landscape islands shall be located at the terminus of all parking rows and within bays of parking such that bays do not generally exceed 15 parking spaces in length, and all islands shall contain at least one tree (large or ornamental). All landscape areas shall be protected by a monolithic concrete curb or wheel stops, and shall remain free of trash, litter, and car bumper overhangs.

(d) Each lot/tract shall provide a minimum fifteen-foot-wide landscaped buffer strip around the sides and rear perimeters of the lot/tract, provided that each [such] side or rear lot/tract line does not abut residentially zoned property which requires a screening wall per article 26.03 of this chapter. Within the five-foot perimeter buffer shall be provided a four-foot-tall screen comprised of hardy evergreen shrubs, decorative walls with shrubs, or similar landscaping. If a side or rear lot/tract line abuts a residentially zoned property, and for nonresidential and institutional uses in residential zoning districts, then that portion of the perimeter buffer strip shall observe the required screening per article 26.03 of this chapter, shall be a minimum of ten feet in width, and shall be required to have one large shade tree, in lieu of the four-foot-high screen described above, for every 30 linear feet for overstory screening/buffering for the adjacent residences.

(e) Only shrubs, ground covers and small ornamental trees shall be used under existing or proposed overhead utility lines.

(f) Vehicular driveways from the public right-of-way and sidewalks, in accordance with city regulations, shall be permitted through all required landscaping.

(2006 Code, sec. 28-156; Ordinance 09-05-797, sec. 2 (art. VI, sec. 6), adopted 5/18/09; Ordinance 13-02-947, sec. 18, adopted 2/19/13)

Sec. 26.07.008 Minimum requirements for single-family and two-family residential developments

(a) For all single-family and two-family developments, each residential lot/tract shall be required to have one large shade tree for each 50 feet, or portion thereof, of lot/tract width. Trees may be clustered or spaced linearly and need not be placed evenly at 50-foot intervals. The required trees shall be installed prior to issuance of a certificate of occupancy for the premises.

(b) The shade trees shall be a minimum of five-inch caliper. If the tree is located on a slope, measurement shall be from the highest side of the slope. The shade trees shall be selected from the current Texas A&M University Collin County Extension Agent's recommended tree list.

(c) The minimum height required for shade trees shall be seven feet.

(d) Shade trees in single-family developments are required to be maintained.

(2006 Code, sec. 28-157; Ordinance 09-05-797, sec. 2 (art. VI, sec. 7), adopted 5/18/09; Ordinance 13-02-947, sec. 19, adopted 2/19/13)

Sec. 26.07.009 Sight distance and visibility

(a) Rigid compliance with these landscaping requirements shall not be such as to cause visibility obstructions and/or blind corners at intersections (see section 30.07.108 for visibility requirements at street intersections and corners).

(b) Landscaping, except required grass and low ground cover, shall not be located closer than three feet from the edge of any vehicular pavement in order to avoid visibility problems when plant materials mature.

(c) In the event other visibility obstructions are apparent in the proposed landscape plan, as determined by the city manager, or his designee, the requirements set forth herein may be slightly reduced, if necessary, to remove the conflict.

(2006 Code, sec. 28-158; Ordinance 09-05-797, sec. 2 (art. VI, sec. 8), adopted 5/18/09)

Sec. 26.07.010 Maintenance

(a) The owner, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not be limited to, mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds, and other such material or plants not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials which die shall be replaced with plant material of similar variety and size, within 90 days. Trees with a trunk diameter in excess of six inches measured four feet above the ground may be replaced with ones of similar variety having a trunk diameter of no less than three inches measured four feet above the ground on a caliper-inch for caliper-inch basis (e.g., for a six-inch tree, two three-inch replacement trees shall be required). A time extension may be granted by the city manager or his designee, if substantial evidence is presented to indicate abnormal circumstances beyond the control of the owner or his agent.

(b) It shall be the duty of any person or persons owning or occupying real property bordering on any street to prune trees next to the street in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view from any street or alley intersection (see visibility requirements in article 26.03 of this chapter). The minimum clearance of any portion of a tree overhanging a public street right-of-way shall be 14 feet, and overhanging a public sidewalk shall be eight feet.

(c) Failure to maintain any landscape area in compliance with this section is considered a violation of this article and may be subject to penalties.

(2006 Code, sec. 28-159; Ordinance 09-05-797, sec. 2 (art. VI, sec. 9), adopted 5/18/09)

Sec. 26.07.011 Variance procedure

(a) The planning and zoning commission shall hold a public hearing on any request for a variation or exception to the standards provided by this article. The planning and zoning commission may not recommend a variation or exception unless the planning and zoning commission determines that the variation or exception will not substantially alter the intent of the standards established by this article.

(b) All recommendations of the planning and zoning commission under this article shall be forwarded to the city council. When the planning and zoning commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.

(2006 Code, sec. 28-160; Ordinance 09-05-797, sec. 2 (art. VI, sec. 10), adopted 5/18/09)

ARTICLE 26.08 TREE PRESERVATION**Sec. 26.08.001 Requirements**

(a) Applicability. This section applies to all new residential and nonresidential development within the city.

(b) Preservation of existing landscape. The existing natural landscape character, especially native oaks, elms and pecan trees, shall be preserved to the maximum extent reasonable and feasible. For example, within areas containing a mature stand of trees, developers and builders shall use best efforts to preserve such mature trees. Indiscriminate clearing or stripping of natural vegetation on a property or lot/tract is prohibited. Any part of a site not used for buildings, parking, driveways, walkways, utilities and approved storage areas shall be retained in a natural state, or reclaimed to its natural state, to the greatest extent feasible, or attractively landscaped in a manner that adds aesthetic value to the development and to the community as a whole. Underbrush/undergrowth is allowed to be removed with written approval from the city planner or parks superintendent.

(c) Protected and specimen trees. The removal of any tree with a caliper of three inches or larger, except that of a bois d'arc or hackberry species, or of any specimen tree ten inches or larger, must be specifically requested by the applicant and approved in writing by the city planner and parks superintendent prior to any action being taken to remove the tree or to damage or disturb the tree in any way. Caliper inches for a single-stem tree shall be the diameter of the trunk measured 6 inches above the ground for a tree having a diameter up to and including eight inches, and measured at four and one-half feet above ground for a tree having a diameter of more than eight inches. Caliper inches for a multi-stem tree shall be the diameter of the trunk measured at the narrowest point below branching when branching occurs higher than 12 inches above the ground. When branching occurs at or lower than 12 inches above the ground, caliper means the diameter of the largest stem plus the average diameter of the remaining stems, measured at four and one-half feet above the ground. Removal of such trees without this approval is expressly prohibited. Prior to the removal of any protected or specimen tree, the property owner must first submit a letter to the city manager, or his designee, that describes in detail which tree will be removed, how the removal will be performed (and machinery and equipment needed), and the date and time whereupon the anticipated removal will occur. The letter must also include a notarized statement by the owner that the tree to be removed is either not a protected or specimen tree, as defined herein, or that its removal will be in complete conformance with the provisions of this section. Said letter must be submitted at least one week in advance of the removal operation, and written city approval must be obtained prior to commencing the removal operation.

(d) Preservation and protection of existing trees. All existing trees which are to be preserved shall be provided with undisturbed, permeable surface area under and extending outward to the existing dripline of the tree. All protected trees within or next to an excavation site or to a construction site for any building, structure or paving work shall be clearly marked and guarded with a good substantial fence, frame or box not less than four feet high and surrounding the entire protected zone of the tree. The barriers shall be approved by the city planner and parks superintendent, and shall be in place before any site clearance or other site-disturbing activity commences. Any barrier with lesser dimensions than those specified above shall be subject to approval by the city planner and parks superintendent. All building material, dirt, excavation or fill materials, chemicals, construction vehicles or equipment, debris, and other materials shall be kept outside the barrier. Barriers shall remain in place until the final building and landscape site inspections are satisfactory completed and the certificate of occupancy has been issued for the premises.

(e) Permit requirement for excavation, trenching, paving, etc. No person shall excavate any ditches, tunnels or trenches, or place any paving or construction material, or drive any type of machine within the protective zone, or within the dripline, of any protected tree without first obtaining a written permit from the city planner and parks superintendent.

(f) Damage prohibited. Unless specifically authorized by the city planner and parks superintendent, no person shall intentionally damage, cut, carve, transplant or remove any protected tree; attach any rope, wire, nails, advertising posters or any other contrivance to any protected tree; allow any gaseous, liquid or solid substance which is harmful to such plants to come in contact with any protected tree or with any of the area within its dripline; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any protected tree.

(g) Removal of existing trees. The removal of an existing tree from a development site must be in accordance with this article and all other applicable ordinances of the city.

(h) Exceptions.

- (1) Dangerous conditions. If the owner determines that an emergency situation exists that requires the immediate removal of a tree to protect the safety of persons or property, then the owner may remove the tree only to the extent necessary to eliminate the dangerous situation without a tree removal permit. However, the owner must immediately apply for a tree removal permit.
- (2) Utility companies. Utility companies franchised by the city in easements or rights-of-way accepted by the city or otherwise authorized to provide utility service may remove protected trees that endanger public safety and welfare by interfering with utility service. Any trimming and/or

removal of protected tree by a utility company requires written approval by the city planner and parks superintendent.

- (3) City property. City property shall not be subject to this section. City property, including rights-of-way, streets, and easements for public purpose, parks, and any other property under the jurisdiction of the city, shall be regulated by the requirements of this code.
 - (4) Single-family residential property. Developed property which is zoned in a single-family residential classification and where an existing residence is located shall not be subject to this section.
- (i) Tree credits.
- (1) Negative tree credits. For every protected tree removed, including fence row trees, the owner shall receive negative tree credits or shall be required to plant replacement trees as follows:
 - (A) Trees six to ten caliper inches, two negative credits for each caliper inch.
 - (B) Trees 10.1 to 15 caliper inches, four negative credits for each caliper inch.
 - (C) Trees 15.1 to 24 caliper inches, six negative credits for each caliper inch.
 - (D) Trees 24.1 caliper inches or larger, eight negative credits for each caliper inch.
 - (2) Replacement trees. Replacement trees shall be not less than three caliper inches. All replacement trees shall conform to the standards of the approved plant list for the city and the current edition of the “American Standard for Nursery Stock” (as amended), published by the American Association of Nurserymen. This requirement shall be in addition to the requirements of this article.

(2006 Code, sec. 28-181; Ordinance 09-05-797, sec. 2 (art. VII, sec. 1), adopted 5/18/09; Ordinance adopting 2015 Code)

Sec. 26.08.002 Approved plant list

“Recommended Landscape Plant Materials for North Central Texas” by the Collin County Extension Agent’s office in Collin County, lists approved plants for this jurisdiction. (2006 Code, sec. 28-182; Ordinance 09-05-797, sec. 2 (art. VII, sec. 2), adopted 5/18/09)

Sec. 26.08.003 Variance procedure

- (a) The planning and zoning commission shall hold a public hearing on any request for a variation or exception to the standards provided by this article. The planning and zoning commission may not recommend a variation or exception unless the planning and zoning commission determines that the variation or exception will not substantially alter the intent of the standards established by this article.
- (b) All recommendations of the planning and zoning commission under this article shall be forwarded to the city council. When the planning and zoning commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.

(2006 Code, sec. 28-183; Ordinance 09-05-797, sec. 2 (art. VII, sec. 3), adopted 5/18/09)

ARTICLE 26.09 SENIOR LIVING AND RELATED FACILITIES**Sec. 26.09.001 Applicability**

The following requirements shall apply to all nursing home/convalescent centers, assisted living facilities and independent senior living facilities, except where otherwise noted. (2006 Code, ch. 28, art. VIII; Ordinance 09-05-797, sec. 2 (art. VIII), adopted 5/18/09)

Sec. 26.09.002 Definitions

Assisted living facility. An establishment that furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment and that provides personal care services as defined by title 40, part 1, chapter 92 of the Texas Administrative Code. Personal care services include assistance with meals, dressing, movement, bathing, or other personal needs or maintenance; the administration of medication; or the general supervision or oversight of a person's physical and mental well-being.

Independent senior living facility. A facility containing dwelling units, accessory uses and support services specifically designed for occupancy by persons 60 years of age or older. Such facilities may include accommodations for persons who are fully ambulatory or who require no medical or personal assistance or supervision, as well as accommodations for persons who require only limited or intermittent medical or personal assistance.

Nursing home/convalescent center. A facility that provides lodging and skilled nursing care for elderly, disabled, chronically ill or convalescent patients as defined by title 40, part 1, chapter 19 of the Texas Administrative Code.

Collectively, the terms "assisted living facility," "independent senior living facility," and "nursing home/convalescent center" may be referred to as "senior living facilities" in this article unless the context indicates otherwise.

(2006 Code, sec. 28-201; Ordinance 09-05-797, sec. 2 (art. VIII, sec. 1), adopted 5/18/09)

Sec. 26.09.003 Site design**(a) Density.**

- (1) Assisted living and independent senior living facilities shall have a maximum density allowed as follows:
 - (A) Twelve units per acre in a multifamily 12 district.
 - (B) As established by the governing ordinance in a planned development district.
- (2) There is no maximum density established for nursing home/convalescent centers, unless otherwise provided in the governing ordinance for a planned development district.

(b) Building design.

- (1) **Maximum height.**
 - (A) The maximum height of a senior living facility located in a multifamily district shall be 24 feet from the first finished floor elevation to the top plate on the second floor.
 - (B) The maximum height and appropriate building setbacks of a senior living facility located in a planned development district shall be established by the governing ordinance.

(2) Roofscapes.

- (A) Roof materials for a senior living structure shall be comprised of architectural/dimensional composition shingle (30-year minimum), flat pan standing seam metal roofing (only with a factory baked-on muted color finish; no bright colors or natural-colored metal roofing allowed), or terra-cotta or slate tile in muted colors.
- (B) Minimum roof pitch shall be a 5:12 ratio.
- (C) Rooftop-mounted air conditioning equipment shall be prohibited.

(3) Storage space.

- (A) Except for nursing home/convalescent centers, an enclosed storage space shall be provided for each dwelling unit within a senior living facility with direct access provided from the dwelling unit. Each storage space shall be a minimum of 25 square feet in area and shall contain not less than 175 cubic feet. A garage shall not count as a storage space.
- (B) In addition to individual storage spaces, a senior living facility other than nursing home/convalescent centers shall provide a common storage area with a minimum of 50 square feet per dwelling unit.

(4) Exterior walls.

- (A) At least two masonry materials (in addition to glass) shall be used on an exterior wall on any single building of a hotel/motel. The percent of masonry as required below shall be measured for each expanse of exterior wall between corners of 15 degrees or more. Exterior walls shall be composed of:
 - (i) At least 75 percent primary masonry product such as brick, stone, hand-laid tile (laid unit-by-unit), or veneer simulations of such materials having the appearance of hand-laid units;
 - (ii) Not more than 15 percent secondary masonry products, that is, exterior insulation and finish systems composed of natural aggregates and synthetic binders having a minimum applied thickness of three-fourths inch, exposed aggregate, glass block or decorative concrete masonry units other than flat gray block; and
 - (iii) Not more than ten percent non-masonry materials, excluding doors, windows and window units.
- (B) Buildings with linear frontage in excess of 80 feet shall have not less than 30 percent of the total area of front facades offset a minimum of four feet, either protruding forward of or recessed back from the remainder of the facade. Buildings having a linear frontage less than 80 feet shall have no less than 30 percent of the total area of front facades offset a minimum of two feet.

(c) Site facilities.(1) Unit size and mix.

- (A) Assisted living facility. Dwelling units shall have a minimum size of 250 square feet.

- (B) Independent senior living facility. The average minimum dwelling unit size shall be 600 square feet. One-bedroom units shall have a minimum dwelling unit size of 475 square feet. Two-bedroom units shall have a minimum dwelling unit size of 725 square feet. No dwelling unit shall contain more than two bedrooms. No efficiency units shall be permitted.
- (2) Common areas. Indoor common or recreational areas shall be provided at a ratio of a minimum of 100 square feet of gross floor area per dwelling unit. Such areas shall include common living/sitting room, dining room, library, game room, exercise room, dance floor, arts and crafts room, music room, and other indoor recreational facilities.
- (d) Building placement.
 - (1) For assisted living and independent senior living facilities, a minimum of 50 percent of the buildings within 100 feet of any public right-of-way shall be placed so that any side of such building shall have an angle of 30 degrees or more to that right-of-way. The intent of this provision is to avoid the external appearance of long, monotonous building alignments and to provide for internal courts between building clusters for parking and open space/recreation.
 - (2) Buildings within an assisted living facility or an independent senior living [facility] shall be located no less than 20 feet apart.
 - (3) No building, or any part thereof, of a senior living facility shall be placed less than 30 feet from the right-of-way of any public street.
 - (4) No building, or any part thereof, of a senior living facility shall be placed less than:
 - (A) Fifteen feet from rear and side property lines (ten feet if the setback area is landscaped and if approved by the planning and zoning commission);
 - (B) For single-story buildings not exceeding 30 feet in height, 60 feet from the property line of an abutting residential district (40 feet if the area is landscaped with additional landscaping and if approved by the planning and zoning commission).
- (e) Parking and circulation.
 - (1) Number of spaces.
 - (A) Nursing home/convalescent center. One parking space shall be provided for each four beds within a nursing home/convalescent center.
 - (B) Assisted living facility. One parking space shall be provided for each three dwelling units within an assisted living facility. In addition, one parking space shall be provided for each day shift staff member, and one parking space shall be provided for each 20 dwelling units to accommodate guests.
 - (C) Independent senior living facility. One parking space shall be provided for each dwelling unit within an independent senior living facility. In addition, one parking space shall be provided for each day shift staff member, and one parking space shall be provided for each 20 dwelling units to accommodate guests.
 - (2) Enclosed or covered parking. A minimum of 50 percent of the required parking spaces for an assisted living facility or independent senior living facility shall be contained in either an attached enclosed garage or a detached multi-car covered parking structure. Detached covered parking shall function unobtrusively and shall be compatible with the main buildings of the facility in terms of materials design, style and color. Detached covered parking structures, if used, shall be located near

the building served. No detached covered parking structure shall accommodate more than ten parking spaces or be located closer than ten feet to another parking structure.

- (3) Screening of parking spaces. All parking spaces located between any building and the right-of-way of any public street or a single-family district shall be screened from view in accordance with the screening and landscape standards of the city.

(2006 Code, sec. 28-202; Ordinance 09-05-797, sec. 2 (art. VIII, sec. 2), adopted 5/18/09)

Sec. 26.09.004 Screening and landscaping

(a) A minimum of 40 percent of the gross platted area of the site of any senior living facility shall be devoted to landscaping, open space areas, pools and similar outdoor recreational activity areas.

(b) Perimeter fencing and landscaping shall be required along property lines and access points to a senior living facility. Such fencing shall have a minimum height of six feet, and shall be constructed of masonry or ornamental iron with masonry columns. Landscaping shall be provided in accordance with the screening and landscape standards, except that the fence height shall be required to be six feet instead of five feet, and allowed fencing materials shall include masonry and ornamental iron and exclude chain link.

(c) All satellite dishes/antennas, refuse collection areas and refuse compactors, and ground-mounted equipment shall be placed unobtrusively and screened from view of the perimeter of the development. Whenever possible, appurtenances for utility services shall be installed at the rear of the structures which they service. Acceptable methods of screening are landscaping including trees or evergreen shrubbery, earthen berms in conjunction with landscaping, and masonry walls in conjunction with landscaping.

(2006 Code, sec. 28-203; Ordinance 09-05-797, sec. 2 (art. VIII, sec. 3), adopted 5/18/09)

Sec. 26.09.005 Glare and illumination

(a) Parking area lighting.

- (1) All off-street parking areas shall be illuminated. The level of intensity of illumination, measured at a height of three feet above the pavement surface, shall be a minimum average of 2.0 footcandles, and a minimum level at any point of at least 0.66 footcandles. Illumination shall be uniformly distributed throughout the lighted area, at an average-to-minimum uniformity ratio of at least 3:1.
- (2) The mounting height of luminaire fixtures shall not exceed 20 feet.
- (3) Standards, poles and fixtures shall be of a single color, compatible with the architecture of the building.
- (4) All lighting fixtures shall be restricted to down-light or cut-off types.

(b) Walkway lighting.

- (1) All outdoor pedestrian areas and walkways shall be illuminated. The level of intensity of illumination, measured at the walkway surface, shall be a minimum average of 0.8 footcandles, distributed at an average-to-minimum uniformity ratio of at least 5:1.
- (2) The mounting height of luminaire fixtures shall not exceed 12 feet.
- (3) Pole- and wall-mounted fixtures mounted above six feet shall be of a down-light or cut-off type.

(2006 Code, sec. 28-204; Ordinance 09-05-797, sec. 2 (art. VIII, sec. 4), adopted 5/18/09)

Sec. 26.09.006 Signage

(a) All signage for a senior living facility shall be architecturally compatible with the main buildings of the facility in terms of materials, design style and colors.

(b) Freestanding signs shall be subject to the following restrictions:

- (1) Freestanding signs shall be limited to monument signs.
- (2) Only one monument sign may be erected on any site of a senior living facility, except that, where a site possesses frontage on at least two streets, a maximum of two monument signs may be used.
- (3) A minimum setback of 15 feet from any street right-of-way and from property lines abutting a single-family use shall be required of all monument signs. No monument sign shall exceed 35 square feet in sign area or seven feet in height.
- (4) No part of a monument sign shall be closer than 25 feet (measured radially) to another freestanding sign on an adjacent sign site, nor shall any part of a freestanding sign be closer than 100 feet radially to another freestanding sign on the same development site.

(c) Attached signs shall have a maximum total sign area of one-half times the width of the building with a maximum area of 35 square feet. Attached signs may be located only on the building containing the management office for the facility.

(2006 Code, sec. 28-205; Ordinance 09-05-797, sec. 2 (art. VIII, sec. 5), adopted 5/18/09)

Sec. 26.09.007 Support services and accessory uses

(a) In addition to dwelling units for occupants of the facility, a senior living facility may include special facilities and services for its residents such as cafeterias, dining rooms, housekeeping services, laundry services, transportation services, libraries, game rooms, exercise rooms, dance floors, arts and crafts rooms, swimming pools, greenhouses, and other recreational facilities.

(b) The following uses are permitted in conjunction with an assisted living facility or independent senior living facility to provide on-site goods and services for the use and benefit of residents of the facility. The following are intended as accessory and secondary uses only, and for the exclusive use of facility residents, their guests, and facility staff:

- (1) Medical office;
- (2) Massage therapy;
- (3) Drugstore/pharmacy;
- (4) Optical dispensary;
- (5) Limited restaurant;
- (6) Retail sales/personal service;
- (7) Financial institutions;

(8) Church/religious facilities.

The total floor area occupied by the above-listed uses shall comprise no more than ten percent of the total floor area contained within the senior living facility. Signage for the above-listed accessory uses shall be limited to attached signs for identification purposes only, with a maximum area of 15 square feet.

(2006 Code, sec. 28-206; Ordinance 09-05-797, sec. 2 (art. VIII, sec. 6), adopted 5/18/09)

Sec. 26.09.008 Variance procedure

(a) The planning and zoning commission shall hold a public hearing on any request for a variation or exception to the standards provided by this article. The planning and zoning commission may not recommend a variation or exception unless the planning and zoning commission determines that the variation or exception will not substantially alter the intent of the standards established by this article.

(b) Prior to hearing a request for a variation or exception under this article, notice of a public hearing on the request shall be sent to all owners of property, as shown on the current tax rolls, located within the area of application and within 200 feet of any property affected thereby, within not less than ten days before such hearing is held. Such notice may 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. At least ten days' notice of the time and place of the hearing shall be published in the official newspaper of the city.

(c) All recommendations of the planning and zoning commission under this article shall be forwarded to the city council. When the planning and zoning commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.

(2006 Code, sec. 28-207; Ordinance 09-05-797, sec. 2 (art. VIII, sec. 7), adopted 5/18/09)

Sec. 26.09.009 Public hearing on proposed amendments

The planning and zoning commission shall hold a public hearing on any proposed amendment or supplement to this article. After the public hearing is closed, the planning and zoning commission shall immediately make its recommendation and report to the city council. At least 15 days' notice of the time and place of such hearing shall be published in a newspaper having a general circulation in the city. (2006 Code, sec. 28-208; Ordinance 09-05-797, sec. 2 (art. VIII, sec. 8), adopted 5/18/09)

ARTICLE 26.10 HOTEL AND MOTEL DEVELOPMENT STANDARDS**Sec. 26.10.001 Definitions**

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

Hotel/motel, full service. An establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, telephone and desk service. A full-service hotel/motel shall have at least 100 guest rooms, have at least one meeting room of at least 4,000 square feet in area (the meeting room shall be equipped with a sink and a coffee bar), a swimming pool of at least 800 square feet and, on-site, a restaurant with table service provided primarily by waitpersons, seating for at least thirty customers, and full menu service offering multiple entrees with on-site food preparation.

Hotel/motel, limited service. An establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, telephone and desk service. A limited service hotel/motel shall have at least 65 guest rooms, have at least one meeting room of

at least 700 square feet in area (the meeting room shall be equipped with a sink and coffee bar), and a swimming pool of at least 800 square feet.

(2006 Code, sec. 28-231; Ordinance 09-05-797, sec. 2 (art. IX, sec. 1), adopted 5/18/09)

Sec. 26.10.002 Site design

(a) Building design. The following requirements apply to both full-service hotel/motels and to limited-service hotel/motels:

- (1) Accessibility. A guest room shall be accessible only from an internal hallway and the internal hallway shall be accessible only from a central lobby area contained within the hotel/motel.
- (2) Exterior walls. At least two masonry materials (in addition to glass) shall be used on an exterior wall on any single building of a hotel/motel. The percent of masonry as required below shall be measured for each expanse of exterior wall between corners of 15 degrees or more. Exterior walls shall be composed of:
 - (A) At least 75 percent primary masonry product such as brick, stone, hand-laid tile (laid unit-by-unit), or veneer simulations of such materials having the appearance of hand-laid units;
 - (B) Not more than 15 percent secondary masonry products, that is, exterior insulation and finish systems composed of natural aggregates and synthetic binders having a minimum applied thickness of 3/4 inches, exposed aggregate, glass block or decorative concrete masonry units other than flat gray block; and
 - (C) Not more than ten percent non-masonry materials, excluding doors, windows and window units.
- (3) Maximum height. The maximum height shall be three stories for a limited service hotel/motel from the first finished floor elevation. The maximum height of a full service hotel/motel shall be four stories from the first finished floor elevation.
- (4) Roofscapes.
 - (A) Pitched/gabled roofs.
 - (i) Roof materials for a full service/limited service hotel shall be comprised of architectural/dimensional composition shingle (30-year minimum), flat pan standing seam metal roofing (only with a factory baked-on muted color finish; no bright colors or natural-colored metal roofing allowed), or terra-cotta or slate tile in muted colors.
 - (ii) Minimum roof pitch shall be a 5:12 ratio.
 - (iii) Rooftop-mounted air conditioning equipment shall be prohibited.
 - (B) Flat roofs. Flat-roofed structures shall have a highly articulated parapet that conceals the roof and any roof-mounted equipment.

(b) Site facilities.

- (1) Number of rooms. A full-service hotel/motel shall have at least 100 guest rooms. A limited service hotel/motel shall have at least 65 guest rooms.

- (2) Meeting rooms. A full-service hotel/motel shall have at least one meeting room of at least 4000 square feet in area. A limited-service hotel/motel shall have at least one meeting room of at least 700 square feet in area. The meeting room shall be equipped with a sink and a coffee bar.
- (3) Swimming pool. A full-service hotel/motel and a limited-service hotel/motel shall have an interior swimming pool of at least 800 square feet of surface area.
- (4) Restaurant and food service. A full-service hotel/motel shall have, on-site, a restaurant with table service provided primarily by waitpersons, seating for at least thirty customers, and full menu service offering multiple entrees with on-site food preparation.
- (c) Building placement.
 - (1) Setbacks from property lines adjacent to streets. No hotel/motel development building, or any part thereof, shall be placed less than 30 feet from the right-of-way of any public street.
 - (2) Setbacks from property lines not adjacent to streets. No hotel/motel development building, or any part thereof, shall be placed less than:
 - (A) Fifteen feet from rear and side property lines (or ten feet with landscaping if approved by the planning and zoning commission);
 - (B) Fifty feet from the property line of an abutting residential district for single- or two-story buildings not exceeding 30 feet in height (or 40 feet with additional landscaping if approved by the planning and zoning commission). One hundred feet from the property line of an abutting residential district for three- and four-story buildings.
 - (3) All other buildings which abut a residential district shall be set back from the residential district line not less than twice the height of the highest point on the building above grade. No setback shall be less than 50 feet.
- (d) Parking and circulation. The following requirements apply to both full-service hotel/motels and to limited-service hotel/motels:
 - (1) Parking shall be provided at the ratio of 1.25 parking spaces per guest room in addition to required parking for any additional component of the hotel/motel such as meeting rooms and restaurants. Parking spaces shall be separated by at least one foot.
 - (2) An attached, covered, drive-through area adjacent to the hotel/motel lobby or main desk shall be provided for the temporary parking of vehicles during guest registration or check-out.
 - (3) All parking areas shall be illuminated by lighting standards having a minimum illumination intensity of 2.0 footcandles measured at ground level.
- (e) Screening. In addition to any other screening and landscaping requirements imposed by the Code of Ordinances, both full-service hotel/motels and limited-service hotel/motels shall provide screening of ground-mounted satellite, HVAC (other than HVAC equipment serving an individual unit) and auxiliary power equipment by means of a masonry screening wall or a wrought-iron (tubular steel) fence with a living screen, either of which shall be of sufficient height to block visibility of the equipment from view at the property line.
- (f) Security. The following requirements apply to both full-service hotel/motels and to limited-service hotel/motels:
 - (1) When a guest arrives for registration, the guest shall provide at least two forms of identification, one of which shall include a photographic likeness of the guest and be issued by a governmental agency. The guest shall also provide the license plate number of the vehicle, if any, to be used by

the guest during the guest's stay. The hotel/motel shall issue a parking sticker or other identifying placard to be placed on the windshield of each vehicle to be used by the guest during the guest's stay.

- (2) A hotel/motel shall install and maintain, in proper operating order, security cameras in each interior hallway and lobby, in the parking lots, and at each exterior door. The cameras shall be placed so as to provide visibility to the front and rear exteriors of the building and to the swimming pool area. Monitors shall be provided for security and other hotel/motel personnel so that on-site activities may be viewed at all times. Videotapes from security cameras shall be operating 24 hours a day and shall be kept a minimum of 30 days.
- (3) Guest room access shall be provided only through the use of magnetic access keys.
- (4) Exterior doors (other than lobby doors) shall be locked after 10:00 p.m. and shall be equipped with an alarm or other device that will alert hotel/motel security and other personnel when the door has been opened.
- (5) Doors to guest rooms shall be solid core.
- (6) Graffiti and markings or insignia that do or may indicate the presence or association of a street gang shall be removed within 24 hours.

(2006 Code, sec. 28-232; Ordinance 09-05-797, sec. 2 (art. IX, sec. 2), adopted 5/18/09)

Sec. 26.10.003 Bed and breakfast accommodations

Guests at a bed and breakfast accommodation may stay up to 14 consecutive days provided that the bed and breakfast accommodation may only offer a daily rate and shall not offer weekly or bi-weekly rates. A bed and breakfast accommodation may include kitchen and dining facilities to furnish meals for guests only. Food preparation within a guest bedroom is prohibited. A bed and breakfast accommodation may not include a restaurant, banquet facilities or similar services. A bed and breakfast accommodation shall provide parking at the ratio of one parking space for each room. Parking spaces shall be separated by at least one foot. (2006 Code, sec. 28-233; Ordinance 09-05-797, sec. 2 (art. IX, sec. 3), adopted 5/18/09; Ordinance 15-06-994, sec. 4, adopted 6/2/15)

Sec. 26.10.004 Variance procedure

(a) The planning and zoning commission shall hold a public hearing on any request for a variation or exception to the standards provided by this article. The planning and zoning commission may not recommend a variation or exception unless the planning and zoning commission determines that the variation or exception will not substantially alter the intent of the standards established by this article.

(b) Prior to hearing a request for a variation or exception under this article, notice of a public hearing on the request shall be sent to all owners of property, as shown on the current tax rolls, located within the area of application and within 200 feet of any property affected thereby, within not less than ten days before such hearing is held. Such notice may 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. At least ten days' notice of the time and place of the hearing shall be published in the official newspaper of the city.

(c) All recommendations of the planning and zoning commission under this article shall be forwarded to the city council. When the planning and zoning commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.

(2006 Code, sec. 28-234; Ordinance 09-05-797, sec. 2 (art. IX, sec. 4), adopted 5/18/09)

Sec. 26.10.005 Public hearing on proposed amendments

The planning and zoning commission shall hold a public hearing on any proposed amendment or supplement to this article. After the public hearing is closed, the planning and zoning commission shall immediately make its recommendation and report to the city council. At least 15 days' notice of the time and place of such hearing shall be published in a newspaper having a general circulation in the city. (2006 Code, sec. 28-235; Ordinance 09-05-797, sec. 2 (art. IX, sec. 5), adopted 5/18/09)

ARTICLE 26.11 MULTIFAMILY DEVELOPMENT STANDARDS**Sec. 26.11.001 Applicability**

The following requirements shall apply to all multifamily developments within the city. (2006 Code, ch. 28, art. X; Ordinance 09-05-797, sec. 2 (art. X), adopted 5/18/09)

Sec. 26.11.002 Site design**(a) Building design.**

- (1) Maximum height. The maximum height of a multifamily development shall be 31 feet from the first finished floor elevation to the top plate on the third floor, including attached garages, excluding third floor vaulted ceilings. Accessory buildings, including detached garages, garden sheds, gazebos, etc. shall not exceed 16 feet in height.
- (2) Roofscapes.
 - (A) Roof materials for a multifamily structure shall be comprised of architectural/dimensional composition shingle (30-year minimum), flat pan standing seam metal roofing (only with a factory baked-on muted color finish; no bright colors or natural-colored metal roofing allowed), or terra-cotta or slate tile in muted colors.
 - (B) Minimum roof pitch shall be a 5:12 ratio.
 - (C) Rooftop-mounted air conditioning equipment shall be prohibited.
 - (D) A minimum of 30 percent of the total dwelling units shall have one (1) vaulted ceiling with a 12-foot-high peak on the upper floor of any building.
- (3) Storage space. An enclosed storage facility shall be provided for each dwelling unit with direct access provided from that unit. The minimum size of each storage facility shall be 25 square feet and contain not less than 175 cubic feet. A garage shall not count as a storage facility.
- (4) Entry doors. All entry doors shall be of steel construction.
- (5) Aluminum windows. Mill finished aluminum windows shall be prohibited.
- (6) Security systems. Each dwelling unit shall have a security system.
- (7) Exterior walls.
 - (A) At least two masonry materials in addition to glass may be used on any single building.
 - (B) Exterior walls shall be composed of a minimum of 75 percent masonry (brick, stone or tile, hand laid, unit-by-unit, or veneer simulations of such materials having the appearance of hand-laid units), a maximum of 15 percent non-masonry product (exterior insulation and

finish systems of natural aggregates and synthetic binders having a minimum applied three-fourth inch thickness, exposed aggregate, glass block and decorative concrete masonry units other than flat gray block); and no more than ten percent other non-masonry materials, excluding doors, windows or window walls. The percentage of masonry shall be measured for each expanse of exterior wall between corners of 15 degrees or more.

- (C) Buildings with linear frontage in excess of 80 feet shall have no less than 30 percent of the total area of front facades offset a minimum of four feet, either protruding forward of or recessed back from the remainder of the facade. Buildings having a linear frontage less than 80 feet shall have no less than 30 percent of the total area of front facades offset a minimum of two feet.

(b) Site facilities.

- (1) Unit size and mix. The average minimum dwelling unit size shall be 1,000 square feet. Not less than 50 percent of the total dwelling units in the multifamily development shall be one bedroom units, and the maximum number of three-bedroom units shall not exceed five percent of the total number of dwelling units. No efficiency units shall be permitted.
- (2) Clubhouse. A clubhouse, which shall be available to all residents of the development, with a minimum of 2,500 square feet in size, shall be provided for any multifamily development of 200 units or less, a minimum of 3,500 square feet in size for 201 to 350 units, and 4,000 square feet for 351 units or more.
- (3) Swimming pool. One swimming pool having a minimum of 800 square feet of surface water shall be provided for each multifamily development. A second pool shall be provided in any multifamily development of greater than 250 dwelling units.
- (4) Play areas. One play area having a minimum area of 1,000 square feet and at least one piece of play equipment (which shall be manufactured, installed and maintained according to the specifications published in the U.S. Consumer Product Safety Commission "Handbook for Public Playground Safety," 1991, and ASTM 51487-95, "Standard Consumer Safety Performance Specifications for Playground Equipment for Public Use") shall be provided for each multifamily development. A second play area shall be provided for any multifamily development with greater than 250 dwelling units.

(c) Building placement.

- (1) Orientation of buildings. Within a multifamily development, a minimum of 50 percent of the buildings within 100 feet of any public right-of-way shall be placed so that any side of such building shall have an angle of 30 degrees or more to that right-of-way. The intent of this provision is to avoid the external appearance of long, monotonous building alignments and to provide for internal courts between building clusters for parking and open space/recreation.
- (2) Separation of buildings. Buildings within a multifamily development shall be located no less than 20 feet apart.
- (3) Setbacks from property lines adjacent to streets. No multifamily development building, or any part thereof, shall be placed less than thirty (30) feet from the right-of-way of any public street.
- (4) Setbacks from property lines not adjacent to streets. No multifamily development building, or any part thereof, shall be placed less than:
 - (A) Fifteen feet from rear and side property lines (or ten feet with landscaping if approved by the planning and zoning commission);

- (B) Fifty feet from the property line of an abutting residential district for single- or two-story buildings not exceeding 30 feet in height (or 40 feet with additional landscaping if approved by the planning and zoning commission). One hundred feet from the property line of an abutting residential district for three-story buildings.
- (5) All other buildings which abut a residential district shall be set back from the residential district line not less than twice the height of the highest point on the building above grade. No setback shall be less than 50 feet.
- (d) Parking and circulation.
 - (1) A minimum of 50 percent of the required parking spaces of a multifamily development shall be either an attached enclosed garage or a detached multi-car covered parking structure. Detached covered parking shall function unobtrusively and shall be compatible with the main buildings of the multifamily development in terms of materials design, style and color. Detached covered parking structures, if used, shall be located near the building served. No detached covered parking structure shall accommodate more than ten parking spaces or be located closer than ten feet to another parking structure.
 - (2) All parking spaces located between any building and the right-of-way of any public street or single-family district shall be screened from view in accordance with the screening and landscape standards.
 - (3) When garages are used within dwellings, one-car garages shall be a minimum of ten feet wide and 20 feet long, and each garage shall count as one-half of a required parking space.
 - (4) The storage of recreational vehicles and boats shall not be permitted to occupy any required parking space(s), and areas dedicated to such storage shall not be directly visible from any public right-of-way or single-family property line.

(2006 Code, sec. 28-251; Ordinance 09-05-797, sec. 2 (art. X, sec. 1), adopted 5/18/09; Ordinance 15-06-994, secs. 5(a), (b), adopted 6/2/15)

Sec. 26.11.003 Screening and landscaping

- (a) A minimum of 40 percent of the gross platted area of each multifamily development site shall be devoted to landscaping, open space areas, pools and similar outdoor recreational activity areas.
- (b) All property lines and access points to a multifamily development shall have a minimum six-foot-high perimeter fence, which shall be constructed of masonry or wrought iron with masonry columns.
- (c) All satellite dishes/antennas, refuse collection areas and refuse compactors within a multifamily development shall be placed unobtrusively and screened from view of the perimeter of the development.

(2006 Code, sec. 28-252; Ordinance 09-05-797, sec. 2 (art. X, sec. 2), adopted 5/18/09)

Sec. 26.11.004 Signage

- (a) Compatibility. All signage within a multifamily development shall be architecturally compatible with the main buildings of the multifamily development in terms of materials, design style and colors.
- (b) Freestanding signs. Multifamily [developments] may have freestanding signs subject to the following restrictions:
 - (1) Freestanding signs shall be limited to monument signs.

- (2) Only one monument sign may be erected on any multifamily development site, except that where a site possesses frontage on at least two streets, a maximum of two monument signs may be used.
- (3) A minimum setback of 15 feet from any street right-of-way and from property lines abutting a single-family use shall be required of all monument signs. No monument sign shall exceed 35 square feet in sign area or seven feet in height.
- (4) No part of a monument sign shall be closer than 25 feet (measured radially) to another freestanding sign on an adjacent sign site, nor shall any part of a freestanding sign be closer than 100 feet radially to another freestanding sign on the same multifamily development site.

(c) Attached signs. An attached sign shall have a maximum sign area of one-half times the width of the building width with a maximum area of 35 square feet.

(2006 Code, sec. 28-253; Ordinance 09-05-797, sec. 2 (art. X, sec. 3), adopted 5/18/09)

Sec. 26.11.005 Variance procedure

(a) The planning and zoning commission shall hold a public hearing on any request for a variation or exception to the standards provided by this article. The planning and zoning commission may not recommend a variation or exception unless the planning and zoning commission determines that the variation or exception will not substantially alter the intent of the standards established by this article.

(b) Prior to hearing a request for a variation or exception under this article, notice of a public hearing on the request shall be sent to all owners of property, as shown on the current tax rolls, located within the area of application and within 200 feet of any property affected thereby, within not less than ten days before such hearing is held. Such notice may 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. At least ten days' notice of the time and place of the hearing shall be published in the official newspaper of the city.

(c) All recommendations of the planning and zoning commission under this article shall be forwarded to the city council. When the planning and zoning commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.

(2006 Code, sec. 28-254; Ordinance 09-05-797, sec. 2 (art. X, sec. 3), adopted 5/18/09)

Sec. 26.11.006 Public hearing on proposed amendments

The planning and zoning commission shall hold a public hearing on any proposed amendment or supplement to this article. After the public hearing is closed, the planning and zoning commission shall immediately make its recommendation and report to the city council. At least 15 days' notice of the time and place of such hearing shall be published in a newspaper having a general circulation in the city. (2006 Code, sec. 28-255; Ordinance 09-05-797, sec. 2 (art. X, sec. 4), adopted 5/18/09)

CHAPTER 27

RESERVED

CHAPTER 28

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ARTICLE 28.01 GENERAL PROVISIONS***Sec. 28.01.001 Authority; extension to extraterritorial jurisdiction**

(a) This chapter is adopted under the authority of the constitution and laws of the state, including V.T.C.A., Local Government Code ch. 212, being adopted after a public hearing on the matter held on September 3, 2002.

(b) The following rules and regulations are hereby adopted as the subdivision regulations of the city, also referred to herein as “this chapter.” The city council hereby extends the application of this chapter to the extraterritorial jurisdiction of the city, as that area may exist from time to time. This chapter shall be applicable to the filing of plats and the subdivision of land, as that term is defined herein and in V.T.C.A., Local Government Code ch. 212, within the corporate limits of the city and its extraterritorial jurisdiction as they may be from time to time adjusted by annexation or disannexation. The city shall have all remedies and rights provided by V.T.C.A., Local Government Code ch. 212 with regard to the control and approval of subdivisions and plats both within the city and within its extraterritorial jurisdiction.

(2006 Code, sec. 70-1; Ordinance 02-09-549, sec. 1.1, adopted 9/3/02)

State law references—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.

Sec. 28.01.002 Interpretation and purpose

(a) In the interpretation and application of the provisions of this chapter, it is the intention of the city council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions within the city and its extraterritorial jurisdiction.

(b) The subdivision (i.e., platting) of land is the first step in the process of development. The distribution and relationship of residential, nonresidential and agricultural uses throughout the community, along with the system of improvements for thoroughfares, utilities, public facilities and community amenities, determine, in large measure, the quality of life enjoyed by the residents of the city. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors which influence and determine a community’s quality of life and overall character. A community’s quality of life is of the public interest. Consequently, the subdivision of land, as it affects a community’s quality of life, is an activity where regulation is a valid function of municipal government. The regulations contained herein are intended to encourage the development of a quality municipal environment by establishing standards for the provision of adequate light, air, open space, stormwater drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources. Through the application of these regulations, the interests of the public, as well as those of public and private parties, both present and future, having interest in property affected by this chapter, are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, the requirements in this chapter further the possibility that land will be developed for its most beneficial use in accordance with existing social, economic and environmental conditions.

* **Editor’s note**—This chapter consists of the subdivision ordinance, Ord. 02-09-549 adopted September 3, 2002, as amended, previously published as chapter 70 in the 2006 Code of Ordinances. Section numbers, style, capitalization and formatting have been changed to be consistent with the remainder of the Code of Ordinances, and this will be maintained in future amendments to this chapter. Changes in the names of state agencies have been incorporated without notation. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets.

State law reference—Regulation of subdivision and property development, V.T.C.A., Local Government Code, ch. 212.

(c) The procedure and standards for the development, layout and design of subdivisions of land within the corporate limits and extraterritorial jurisdiction of the city are intended to:

- (1) Promote the development and the utilization of land in a manner that assures an attractive and high-quality community environment in accordance with the comprehensive plan and the zoning ordinance of the city set out in chapter 30;
- (2) Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the standards which shall be required;
- (3) Protect the public interest by imposing standards for the location, design, class and type of streets, walkways (sidewalks), alleys, utilities and essential public services;
- (4) Assist orderly, efficient and coordinated development within the city's limits and its extraterritorial jurisdiction;
- (5) Provide neighborhood conservation and prevent the development of slums and blight;
- (6) Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts;
- (7) Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community as contained in this chapter;
- (8) Ensure the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
- (9) Provide for compatible relationships between land uses and buildings; provide for the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways; provide for pedestrian circulation that is appropriate for the various uses of land and buildings; and provide the proper location and width of streets;
- (10) Prevent pollution of the air, streams and bodies of water; assure the adequacy of drainage facilities; safeguard both surface and ground water supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;
- (11) Preserve the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;
- (12) Establish adequate and accurate records of land subdivision;
- (13) Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future developments and citizens within the city and its extraterritorial jurisdiction;
- (14) Protect and provide for the public health, safety and general welfare of the community;
- (15) Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;
- (16) Protect the character and the social and economic stability of all parts of the community, and encourage the orderly and beneficial development of all parts of the community;

- (17) Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land, and minimize conflicts among the uses of land and buildings;
- (18) Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities; and
- (19) Encourage the development of a stable, prospering economic environment.

(d) Minimum standards for development are contained in the city's technical construction standards and specifications (TCSS), the zoning ordinance set out in chapter 30, the building code, applicable articles of this code and in this chapter. However, the comprehensive plan (including the future land use plan, thoroughfare plan, park and open space plan, and other related plans) contains policies designed to achieve an optimum quality of development in the city and its extraterritorial jurisdiction. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous municipal setting and physical environment within the community. Subdivision design shall be of a quality that will carry out the purpose and spirit of the policies expressed within the comprehensive plan and within this chapter, and shall be encouraged to exceed the minimum standards required herein.

(2006 Code, sec. 70-2; Ordinance 02-09-549, sec. 1.2, adopted 9/3/02)

Sec. 28.01.003 Application of regulations

(a) No subdivision plat shall be recorded until a final plat, accurately describing the property to be conveyed, has been approved in accordance with this chapter and with other applicable city regulations (described in subsection (b) of this section). No building permit, certificate of occupancy, plumbing permit, electrical permit, floodplain permit, utility tap, or certificate of acceptance for required public improvements shall be issued by the city for any parcel of land or plat until:

- (1) A final plat has been approved in accordance with this chapter;
- (2) All improvements required by this chapter have been constructed and accepted by the city; or
- (3) Assurances for completion of improvements have been provided in accordance with sections 28.05.001 through 28.05.010 [28.06.001 through 28.06.011].

(b) Compliance with all city ordinances pertaining to the subdivision of land, and the comprehensive plan, shall be required prior to approval of any development application governed by this chapter. It is the property owner's responsibility to be familiar with, and to comply with, city ordinances. Applicable ordinances and requirements include, but are not limited to, the following:

- (1) Comprehensive plan, which includes the future land use plan, thoroughfare plan, park and open space plan, and all other associated maps and plans;
- (2) Zoning ordinance set out in chapter 30;
- (3) Building codes set out in chapter 24;
- (4) Flood damage prevention code set out in article 24.10;
- (5) Fire prevention code set out in chapter 8;
- (6) Other applicable chapters of this code; and

- (7) Stormwater ordinance (upon its adoption).

(2006 Code, sec. 70-3; Ordinance 02-09-549, sec. 1.3, adopted 9/3/02)

Sec. 28.01.004 Jurisdiction

The provisions of this chapter shall apply to the following forms of land subdivision and development activity within the city's limits and its extraterritorial jurisdiction:

- (1) The division of land into two or more tracts, lots, sites or parcels; or
- (2) All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the city's subdivision regulations in the county and which subsequently came within the jurisdiction of the city's subdivision regulations through:
 - (A) Annexation;
 - (B) Extension of the city's extraterritorial jurisdiction; or
- (3) The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or
- (4) When a building permit is required for the following uses:
 - (A) Residential single-family:
 - (i) Construction of a new single-family dwelling unit;
 - (ii) Moving of a primary structure or a main building onto a piece of property; or
 - (B) Nonresidential and multifamily:
 - (i) Construction of a new nonresidential or multifamily structure;
 - (ii) Additions, such as increasing the square footage of an existing building by more than 20 percent of its gross floor area;
 - (iii) Moving a primary structure onto a piece of property; or
- (5) For tracts where any public improvements are proposed; or
- (6) Whenever a property owner proposes to divide land lying within the city or its extraterritorial jurisdiction into two or more tracts, and claims exemption from V.T.C.A., Local Government Code ch. 212, subch. A, for purposes of development, that results in parcels or lots all greater than five acres in size; or in the event that development of any such tract is intended, and where no public improvement is proposed to be dedicated, he shall first obtain approval of a development plat that meets the requirements of V.T.C.A., Local Government Code ch. 212, subch. B, Regulation of Property Development, secs. 212.041–212.050, as amended. (See section 28.02.006 for requirements for development plats.)

(2006 Code, sec. 70-4; Ordinance 02-09-549, sec. 1.4, adopted 9/3/02)

Sec. 28.01.005 Exemptions

The provisions of this chapter shall not apply to:

- (1) Development of land legally platted and approved prior to the effective date of the ordinance from which this chapter is derived, except as otherwise provided for herein (construction of facilities and structures shall conform to design and construction standards in effect at the time of construction) and for which no resubdivision is sought;
- (2) Development of land constituting a single tract, lot, site or parcel for which a legal deed of record describing the boundary of said tract, lot, site or parcel was filed of record in the deed records of the county on or before December 19, 1988;
- (3) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is occurring;
- (4) Existing cemeteries complying with all state and local laws and regulations;
- (5) Divisions of land created by order of a court of competent jurisdiction;
- (6) When a building permit is requested for unplatted or already platted parcels for one or more of the following activities:
 - (A) Replacement or reconstruction of an existing primary single-family or duplex structure, but not to exceed the square footage, nor deviate from the original location, of the original structure;
 - (B) Building additions, such as increasing the square footage of a residence or other structure, of not over 100 percent of the existing structure's value, and of not over 50 percent of the gross floor area of the structure;
 - (C) Accessory buildings (as defined in the zoning ordinance set out in chapter 30);
 - (D) Remodeling or repair which involves no expansion of square footage; or
 - (E) Moving a structure off a lot or parcel, or for demolition permits.

(2006 Code, sec. 70-5; Ordinance 02-09-549, sec. 1.5, adopted 9/3/02)

Sec. 28.01.006 Pending applications

All applications for plat approval, including final plats, that are pending on the effective date of the ordinance from which this chapter is derived and which have not lapsed shall be reviewed under the regulations in effect immediately preceding the effective date of this chapter. (2006 Code, sec. 70-6; Ordinance 02-09-549, sec. 1.6, adopted 9/3/02)

Sec. 28.01.007 Interpretation and conflict

- (a) Interpretation. In their interpretation and application, the provisions of the regulations contained in this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.
- (b) Conflict with other laws. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in this chapter. To the extent that this chapter promulgates standards or imposes restrictions or duties which differ from those imposed by

other city ordinances, rules or regulations, the regulations contained within this chapter shall supersede such other provisions to the extent of any conflict or inconsistency.

(2006 Code, sec. 70-7; Ordinance 02-09-549, sec. 1.7, adopted 9/3/02)

Sec. 28.01.008 Saving provision

This chapter shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any section or provision existing at the time of adoption of the ordinance from which this chapter is derived, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the city except as shall be expressly provided in this chapter. (2006 Code, sec. 70-8; Ordinance 02-09-549, sec. 1.8, adopted 9/3/02)

Sec. 28.01.009 Waivers and suspensions

(a) Generally. Where the planning and zoning commission recommends, and the city council finds, that undue hardships will result from strict compliance with a certain provision of this chapter, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve a waiver/suspension from any portion of these regulations so that substantial justice may be done and the public interest is secured, provided that the waiver/suspension shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the city council shall not approve a waiver/suspension unless it shall make findings based upon the evidence presented to it in each specific case that:

- (1) Granting the waiver/suspension will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver/suspension will not prevent the orderly subdivision of other property in the vicinity;
- (2) The conditions upon which the request for a waiver/suspension is based are unique to the property for which the waiver/suspension is sought, and are not applicable generally to other property;
- (3) Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
- (4) The waiver/suspension will not in any manner vary the provisions of the zoning ordinance set out in chapter 30 or the comprehensive plan or any other adopted plan or ordinance of the city; and
- (5) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.

Such findings of the city council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the city council meeting at which a waiver/suspension is considered. A waiver/suspension from any provision of this chapter may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the property owner or developer, standing alone, shall not be deemed to constitute undue hardship.

(b) Criteria for waivers/suspensions from development exactions. Where the city council finds that the imposition of any development exaction pursuant to these regulations exceeds reasonable benefit to the property owner, or is so excessive as to constitute confiscation of the tract to be platted, it may approve a full or partial, at its discretion, waiver/suspension to such requirements, so as to prevent such excess.

(c) Conditions. In approving a waiver/suspension, the city council may require such conditions as will, in its judgment, secure substantially the purposes described in section 28.01.002.

(d) Procedures.

- (1) A petition for a waiver/suspension shall be submitted in writing by the property owner before the plat is submitted for the consideration of the planning and zoning commission. The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner.
- (2) Where a hardship is identified during concept plan review pursuant to the zoning ordinance set out in chapter 30 or during subdivision plat review pursuant to this chapter which requires issuance of a waiver/suspension from a provision in this chapter, the commission may recommend a conditional (or temporary) waiver/suspension from that provision in this chapter in conjunction with concept plan or plat approval by the city council. A conditional or temporary waiver/suspension from this chapter shall receive final approval along with a construction plat provided that the construction plat conforms to the concept plan, and that no new information or reasonable alternative plan exists which, at the determination of the city council, voids the need for a waiver/suspension. All waivers/suspensions shall have final approval or disapproval by the city council.

(e) Criteria for waivers/suspensions for street exactions. Where the city council finds that the imposition of any dedication or construction requirement for streets pursuant to these regulations exceeds reasonable benefit to the property to be platted, it may approve waivers/suspensions for such requirements so as to prevent such excess. In order to qualify for a waiver/suspension under this section, the property owner shall demonstrate that the costs of right-of-way dedication and construction of non-local streets imposed pursuant to these regulations substantially exceeds the incremental costs of providing land and transportation improvements necessary to offset the additional traffic impacts generated by, or attributable to, the development upon the transportation network serving the property, including that which may be generated by or attributed to other phases to be platted in the future.

(2006 Code, sec. 70-9; Ordinance 02-09-549, sec. 1.9, adopted 9/3/02)

Sec. 28.01.010 Payments of all indebtedness attributable to a specific property

No person who owes delinquent taxes, delinquent paving assessments, delinquent fees, or any other delinquent debts or obligations to the city, and which are directly attributable to a piece of property, shall be allowed to receive approval for any plat or replat until the taxes, assessments, debts or obligations directly attributable to said property and owed by the property owner or a previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the city manager (or designee) has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts or obligations have been paid at the time of submission for any application for approval under this chapter. (2006 Code, sec. 70-10; Ordinance 02-09-549, sec. 1.10, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.01.011 Right to deny hearing and plat

The city may deny a hearing and any approval pursuant to this chapter if the applicant does not submit the information and fees required by this chapter. (2006 Code, sec. 70-11; Ordinance 02-09-549, sec. 1.11, adopted 9/3/02)

Sec. 28.01.012 Misrepresentation of facts

It shall be a violation of this chapter for any person to knowingly or willfully misrepresent, or fail to include, any information required by this chapter in any plat application or during any public hearing or meeting or [of] the commission or city council. Such a violation shall constitute grounds for denial of the plat. (2006 Code, sec. 70-12; Ordinance 02-09-549, sec. 1.12, adopted 9/3/02)

Sec. 28.01.013 Definitions

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word “shall” is always mandatory, while the word “may” is merely directory.

Addition. A lot, tract or parcel of land lying within the corporate boundaries or extraterritorial jurisdiction of the city which is intended for the purpose of subdivision or development.

Administrative officers. Any officer of the city referred to in this chapter by title, including but not limited to the city manager, city secretary, fire chief, police chief, director of public works and chief building official, shall be the person so retained in that position by the city, or his duly authorized representative. This definition shall also include civil engineering, planning, legal, financial, traffic engineering and other consultants retained by the city to supplement or support existing city staff, as deemed appropriate by the city.

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 service access to the back or sides of properties that derive primary access from a street. The length of an alley segment is to be measured from the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts onto a street, or from the centerpoint of an intersection with another alley which connects to a street.

Amended plat or amending plat. A revised plat correcting errors or making minor changes to the original recorded final plat.

Amenity. An improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this chapter.

Applicant. A person or entity who submits an application for an approval required by this chapter. Also sometimes referred to as “developer,” “subdivider,” or other similar term.

Application. A written request for an approval required by this chapter.

Approval (by city council). The city council, as the governing body of the city, shall be the final authority responsible for approving all plats except for minor plats and amended plats. The only appeal to a decision by the city council shall be the judicial system.

Approval (by the planning and zoning commission). As a recommending body to the city council, any reference herein to approval by the planning and zoning commission shall be construed to mean that the commission takes action to make a favorable recommendation (either with or without conditions) to the city council. Any appeal to a decision by the planning and zoning commission shall be made to the city council.

Assurance. See section 28.06.002.

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.

Block length or street length. For a residential subdivision, that distance measured along the centerline of the street from the intersection centerpoint of one through street to the intersecting centerpoint of another street, or to the midpoint of a cul-de-sac. The through street referred to above shall not be a cul-de-sac, a dead-end street, or a looped street, but shall be a street which clearly has two points of ingress from two different directions.

Bond. Any form of a surety bond in an amount and form satisfactory to the city.

Building setback line. The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street right-of-way line, property line, a creek, or some other specific feature.

Capital improvements program (CIP). The official proposed schedule, if any, of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by the city council.

City. The City of Murphy, Texas.

City attorney. Shall apply only to the attorney, or firm of attorneys, that has been specifically employed by the city to assist in legal matters. The term “city attorney” shall also apply if the city retains a person to perform the functions of city attorney as an official city employee.

City council. The duly elected governing body of the city.

City engineer. Shall apply only to the licensed professional engineer, or firm of licensed professional consulting engineers, that has been specifically employed by the city to assist in engineering-related matters. The term “city engineer” shall also apply if the city retains a person to perform the functions of city engineer as an official city employee.

City planner. Shall apply only to the practicing, professional land planner, or firm of professional land planners, that has been specifically employed by the city to assist in planning and zoning related matters. The term “city planner” shall also apply if the city retains a person to perform the functions of city planner as an official city employee.

Commission. The planning and zoning commission of the city.

Comprehensive plan. The comprehensive plan of the city and adjoining areas as adopted by the city council, including all its revisions and plan elements (including, but not limited to, the future land use plan, thoroughfare plan, parks and open space plan, and the like). The comprehensive plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water and wastewater facilities, and other public and private developments and improvements.

Concept plan. A drawing of the overall conceptual layout of a proposed development, superimposed upon a topographic map which generally shows the anticipated plan of development, and which serves as a working base for noting and incorporating suggestions of the city’s administrative officers, the commission, the city council, and others who are consulted prior to preparation of the construction plat. A concept plan is also sometimes referred to as a “preliminary site plan,” a “sketch plan” or a “land study.”

Construction plat (also preliminary plat). The graphic expression of the proposed overall plan for subdividing, improving and developing a tract, showing in plan view the proposed street and lot layout, easements, dedications and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development. The preliminary plat is referred to as the construction plat herein, since the engineering plans for public improvements are submitted along with it, and since it contributes toward authorization to proceed with construction of the subdivision and its associated public improvements, subject to any additions, alterations, plan approval and construction release by the city engineer.

Contiguous. Lots are contiguous when at least one boundary line or point of one lot touches a boundary line, or lines, or point of another lot.

Cul-de-sac. A street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround or “bulb.” The length of a cul-de-sac is to be measured from the intersection centerpoint of the adjoining through street to the midpoint of the cul-de-sac bulb.

Dead-end street. A street, other than a cul-de-sac, with only one outlet.

Easement. An area for restricted use on private property upon which the city or a public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and other improvements or growths which in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within said easements. The city and public utilities shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.

Engineer. A person duly authorized and licensed under the provisions of the Texas Engineering Registration Act to practice the profession of engineering.

Engineering plans or drawings. The maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision in accordance with the requirements of the city as a condition of approval of the plat.

Escrow. A deposit of cash with the city in accordance with this chapter.

FEMA. The Federal Emergency Management Agency of the U.S. government.

Final plat (also record plat or as-built plat). The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat of any lot, tract or parcel of land shall be recorded in the land records of the county. An amended plat is also a final plat.

Governing body. The city council.

Improvement or developer agreement. A contract entered into by the applicant and the city, by which the applicant promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval.

Land planner. Persons, including surveyors or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, nonresidential and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, or by actual experience and practice in the field of land planning, and who may be certified as a member of the American Institute of Certified Planners (AICP).

Land study. The same as a concept plan.

Lot (also lot of record). A divided or undivided tract or parcel of land having frontage on a public street, and which is, or which may in the future be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record at the county.

Major plat. All plats not classified as minor plats, including but not limited to subdivisions of more than four lots, or any plat that requires the construction of a new street (or portion thereof) or the extension of a municipal facility as required by this or any other city ordinance.

Major subdivision. Means the same as a major plat.

Minor plat. A subdivision resulting in four or fewer lots, provided that the plat is for conveyance purposes only with no development or construction proposed, and provided that the plat does not create any new easements for public facilities nor the extension of any municipal facilities to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be served by all required city utilities and services, and all lots will have access from a public roadway that has already been improved to city standards.

Minor subdivision. Means the same as a minor plat.

Off-site facilities or improvements. Those facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat, and are not required to be constructed or improved immediately adjacent to the property to serve the development. These include oversizing for streets, sewer lines, water lines and storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development.

On-site facilities or improvements. The existing or proposed facilities or improvements constructed within the property boundaries of the plat, and the existing or proposed facilities required to be constructed or improved immediately adjacent to the property that are needed to serve the development. Facilities and improvements include, but are not limited to, streets, alleys, water lines, sewer lines, storm drainage facilities, sidewalks, screening devices, and curbs and gutters.

Overlength street (or alley). A street segment, or a cul-de-sac or alley segment, which exceeds the maximum length allowed by this chapter, as measured along the centerline of the street from the intersection centerpoint of one through street, which shall not be a cul-de-sac or dead-end or looped street, to the intersecting centerpoint of another through street or, in the case of a cul-de-sac, to the midpoint of the cul-de-sac. For an alley segment, the measurement shall be to the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts, or from the centerpoint of an intersection with another alley which connects to a street.

Pavement width. The portion of a street that is available for vehicular traffic. Where curbs are used, it is the portion from the back of one curb to the back of the opposite curb.

Perimeter street. Any existing or planned street which abuts the subdivision or addition to be platted.

Person. Any individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.

Planning and zoning commission. The planning and zoning commission of the city.

Plat. A construction plat, final plat, development plat, amended plat or replat, as determined by the context.

Preliminary plat. Means the same as a construction plat. (See “Construction plat.”)

Private street. A private vehicular accessway, including an alley, that is shared by and that serves two or more lots, which is not dedicated to the public, and which is not publicly maintained.

Property owner (also known as applicant or subdivider or developer). Any person or firm, association, syndicate, general or limited partnership, corporation, trust or other legal entity, or any agent thereof, that has sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide such land under this chapter. In any event, the term “property owner” shall be restricted to include only the owner or authorized agent of such owner, such as a developer, of land sought to be subdivided.

Public improvements. Facilities, infrastructure and other appurtenances, typically owned and maintained by the city (but not necessarily located upon city-owned property or right-of-way - public improvements can be located upon private property), which serve a public purpose in providing a needed service or commodity, such as wastewater collection and treatment and water storage and distribution, and which protect the general health, safety, welfare and convenience of the city’s citizens, including efficiency in traffic circulation and access for emergency services. Required public improvements may include, but shall not be limited to, street and alley paving, including any necessary median openings and left-turn lanes on major thoroughfares; water lines and pumping stations; sanitary sewer lines and lift stations; storm drainage structures and stormwater management devices; water quality and erosion controls; screening and retaining walls; fire lane paving and fire hydrants; landscaping, where such is used for required screening or other required landscaped area, and associated irrigation system; and any required public sidewalks, streetlights and street name signs. The term “public improvements” shall not include facilities or infrastructure of private providers of utility services other than

water and wastewater, but shall be deemed to include facilities and infrastructure that the city would normally require of a development but which will be owned and maintained by an entity such as a homeowners' association, as in the case of private streets.

Replatting or replat. The resubdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract.

Review. "To read, analyze, assess and act upon" a development application.

Right-of-way. A parcel of land occupied, or intended to be occupied, by a street or alley. Where appropriate, the term "right-of-way" may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and gas facilities; water and sanitary and storm sewer facilities; and any other special use. The use of the term "right-of-way" shall also include parkways and medians outside of the paved portion of the street. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and shall not be included within the dimensions or areas of such lots or parcels.

Standard street. A street or road that meets or exceeds the minimum specifications in the city's standard street specifications, and which is constructed to the ultimate configuration for the type of roadway it is designated for on the city's thoroughfare plan.

Street. A right-of-way, whether public or private and however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:

- (1) Major thoroughfares, also known as arterial streets or primary thoroughfares, which provide vehicular movement from one neighborhood to another or to distant points within the city, and including freeways or highways leading to other communities.
- (2) Collector streets, also known as feeder streets or secondary thoroughfares, which provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.
- (3) Local residential streets, also known as minor thoroughfares or streets, which primarily provide direct vehicular access to abutting residential property.
- (4) Private streets are streets which are owned and maintained by a homeowners' association or property owners' association, and which are not dedicated to the public.

Street improvements. Any street or thoroughfare, together with all appurtenances required by city regulations to be provided with such street or thoroughfare, and including but not limited to curbs and gutters, walkways (sidewalks), drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic-control devices, streetlights and street signs, for which facilities the city will ultimately assume the responsibility for maintenance and operation.

Street length. Means the same as block length. (See "Block length.")

Street right-of-way. The width of the right-of-way for any roadway is the shortest perpendicular distance between the lines which delineate the rights-of-way of the street.

Subdivision (also known as addition). A division or redivision of any tract of land situated within the city's corporate limits or its extraterritorial jurisdiction into two or more parts, lots or sites, for the purpose, whether immediate or future, of sale, division of ownership, or building development. The term "subdivision" includes resubdivisions of land or lots which are part of a previously recorded subdivision.

Submission date. The submission date is when all necessary forms, fees, plans, information and copies have been submitted to the city, previewed for completeness, and deemed as "complete" by action of issuance of a fee receipt by the city.

Substandard street. An existing street or road that does not meet the minimum specifications in the city's standard street specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the city's thoroughfare plan.

Surety (or security or assurance). See section 28.06.002.

Surveyor. A licensed land surveyor or a registered public land surveyor, as authorized by state statutes to practice the profession of surveying.

SWPPP. A stormwater pollution prevention plan (as in a set of engineering construction plans).

TCSS. The city's technical construction standards and specifications for the construction of subdivision improvements, a copy of which is maintained and available for inspection at the city hall, and which is incorporated herein by reference. The TCSS shall be comprised of the North Central Texas Council of Governments' (NCTCOG's) "Standard Specifications for Public Works Construction" and the City of Plano's Standard Construction Details ("Special Provisions," per city Ordinance No. 300 adopted on June 19, 1989, as amended, section 18-74) that are in effect at the time of submission of the plat application. The TCSS shall also include any additional provisions or policies the city implements that pertain to the construction of site improvements such as street, parking lot, driveway and sidewalk paving, storm drainage structures, utility lines and facilities, screening walls/fences, retaining walls, landscaping and irrigation improvements, street lighting or signage, restricted access (gated) entrances to any type of development, and other similar improvements. The city engineer and the city's director of public works shall have the authority to determine whether or not the engineering plans for any type of site improvement are in conformance with the city's TCSS.

Temporary improvements. Improvements built and maintained by the property owner that are needed to remedy a circumstance that is temporary in nature, such as a temporary drainage easement or erosion control device, that will be removed upon completion of the subdivision or shortly thereafter.

TCEQ. The state commission on environmental quality.

U.S. Army Corps of Engineers. The civil engineering branch of the U.S. government.

Yard. The open area between building setback lines and lot lines.

(2006 Code, sec. 70-13; Ordinance 02-09-549, sec. 1.13, adopted 9/3/02; Ordinance adopting 2015 Code)

ARTICLE 28.02 PROCEDURES*

Sec. 28.02.001 Pre-application procedures

(a) The applicant should avail himself of the advice and assistance of the city's administrative officers, including its retained planning and engineering consultants (as applicable), and should consult early and informally with those officers and consultants before preparing a concept plan or any plat in order to save time and money, and to avoid potential unnecessary delays.

(b) Prior to formal application for approval of any concept plan or plat, the applicant shall request and attend a mandatory pre-application conference with the appropriate city officials in order to become familiar with the city's development regulations and the subdivision process. At the pre-application conference, the applicant may be represented by his land planner, engineer and/or surveyor.

(2006 Code, sec. 70-31; Ordinance 02-09-549, sec. 2.1, adopted 9/3/02)

* **State law reference**—Recording of plats, V.T.C.A., Property Code, sec. 12.002.

Sec. 28.02.002 Statutory procedures

(a) Zoning requirements. A property within the city's corporate limits that is being proposed for platting or development must be properly zoned by the city prior to submission of an application for approval of any concept plan or plat. In addition, the proposed development layout or subdivision design shown on the proposed concept plan or plat must be in conformance with all standards and requirements prescribed in the city's zoning ordinance set out in chapter 30 and this chapter. Noncompliance with the requirements of the zoning district in which the subject property is located, or lack of the proper zoning, shall constitute grounds for denial of the concept plan or plat. In situations where the zoning on a particular piece of property cannot be ascertained by the city, the burden of proof regarding the property's zoning shall rest with the property owner. Proof of proper zoning shall consist of appropriate documentation, such as a copy of the ordinance establishing the zoning, which shall be reviewed by city officials as to its validity and authenticity. Any concept plan or plat submitted for approval by the city shall be in accordance with the city's zoning ordinance set out in chapter 30, if the property is located within the city's corporate limits, and, if the property is located within the city's corporate limits or extraterritorial jurisdiction, it shall be in accordance with the city's comprehensive plan, including all adopted water, sewer, storm drainage, future land use, park, recreation, open space and thoroughfare plans. All plats shall be prepared by a licensed civil engineer or a registered professional land surveyor.

(b) Classification of subdivisions and additions. Before any land is filed for record with the county clerk, the property owner shall apply for and secure city council approval of the required subdivision plat, in accordance with the following procedures, unless otherwise provided within this chapter:

- (1) Minor subdivisions may be approved for residential or nonresidential properties. Minor plat approval by the city manager (or designee) requires the submission of a final plat drawing and other submission materials required by section 28.02.010. Lots may be conveyed or sold only when the plat has been approved by the city manager and the plat has been filed with the county.
- (2) Major subdivisions may be approved for residential or nonresidential properties. The procedure for approval of a major subdivision typically involves two to three steps: a concept plan (which is voluntary), construction plat and final plat. Provisions in sections 28.02.003 through 28.02.005 provide the requirements for each. Major plat approval shall be in accordance with sections 28.02.003 through 28.02.005. Upon completion of the required public improvements, or upon submission and city approval of the appropriate surety for public improvements, the property owner may submit the final plat for approval. All major subdivision plats must be reviewed by the commission and approved by the city council, pursuant to sections 28.02.003 through 28.02.005. Lots may be sold only when the final plat has been approved by the city council and the plat has been filed with the county. If the land is required to be platted, no conveyance or sale of any portion or lot of the property may occur until after the final plat is approved by the city council and filed with the county.

(c) Submission requirements for all types of plat applications. In addition to the requirements outlined herein for each type of development application, the city shall maintain separate policies and procedures for the submission and processing of applications including, but not limited to, application forms, checklists, language blocks for plats, and other similar items. The forms and paperwork are available at the office of the city manager, or designee. These policies and procedures may be amended from time to time, and it is the applicant's responsibility to be familiar with, and to comply with, these policies and procedures.

(d) Official submission date and completeness of application for all types of plats.

- (1) For the purpose of these regulations, the "official submission date" shall be the date upon which a complete application for approval of any type of plat, that contains all required elements mandated by V.T.C.A., Local Government Code sec. 212.004(b) and by this chapter, is submitted to the city manager (or designee), after which the statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially submitted until the city manager (or designee) determines that the application is complete and a fee receipt is issued by the city. Failure by the city manager (or designee) to make a determination of incompleteness within

ten calendar days following the date on which the application was first received by the city, shall result in the application being deemed complete, and the “official submission date” shall become the 11th calendar day following initial receipt of the application by the city.

- (2) Plat applications which do not include all required information and materials, as outlined below and per other city development review policies which may change from time to time, will be considered incomplete, shall not be accepted for official submission by the city, and shall not be scheduled on a commission agenda until the proper information is provided to city officials including the city’s retained planning and engineering consultants, if applicable.
- (e) Submission procedures and city review process for all types of plats.
- (1) Submission timing and materials. A complete application for approval of any plat shall be submitted to the city at least 20 calendar days, but no more than 30 calendar days unless the applicant waives the 30-day requirement for action on the plat in writing, prior to the commission meeting at which it is to be considered.
 - (A) State-mandated notification requirements. Due to state-mandated notification requirements, any residential replat that requires public notification (see section 28.02.007) shall be submitted to the city at least 30 calendar days prior to the commission meeting at which it is to be considered. Such replat application shall also be accompanied by a written waiver of the 30-day requirement for action on the plat due to timing constraints imposed by publication of the required notice in the city’s official newspaper.
 - (B) Submission materials. The application shall include a written application form which bears the original notarized signature of the property owner of the subject property, along with the appropriate submission fee, the appropriate number of full-size folded (24 inches by 36 inches) prints of the plat (per the city’s folding requirements, available at city hall), as required by the city’s current development review policies and requirements, and one 11-inch by 17-inch black-and-white reduction of the plat, a copy of any applicable development agreement pertaining to the subject property (if any), and any other applicable information and materials deemed appropriate by the city. One copy of all of the above materials and plans shall be simultaneously submitted to the city planner and the city engineer for review in order for the application to be deemed complete.
 - (2) Certificate regarding taxes. The application shall be accompanied by a certificate or other satisfactory evidence from the county central appraisal district showing that all taxes have been paid on the subject property, and that no delinquent taxes exist against the property, in accordance with section 28.01.010. Documentation shall also be included that shows no delinquent assessments, fees, or other debts or obligations to the city and which are directly attributable to the subject property. One copy of the tax status certificate shall be simultaneously submitted to the city planner in order for the application to be deemed complete.
 - (3) Engineer’s summary report. The application shall also be accompanied by an engineer’s summary report which describes, in as much detail as necessary, the following: the overall nature and scope of the proposed development, including zoning of the property (and including the ordinance number that established the property’s current zoning), proposed use(s) and acreage of each proposed use, minimum lot sizes, widths and depths, number of lots to be created, and special amenities or facilities that will be included in the development; how the property will be served with required utilities and services; how stormwater drainage will be handled; and an itemization and description of any waivers/suspensions from provisions of this chapter that will be sought. If the proposed development will have access points onto a major thoroughfare, the application shall also include a letter from the appropriate entity, such as the state department of transportation or the county, acknowledging and approving proposed driveway locations and corresponding median openings and left-turn lanes, if applicable. Letters shall also be provided from each of the applicable utility service providers, including water, wastewater, gas, electricity, telephone, cable

television and solid waste, verifying their ability to provide an adequate level of service for the proposed development. A letter from the Plano Independent School District and/or the Wylie Independent School District (as applicable) may also be required that acknowledges the district(s) has been informed of the size (with respect to the anticipated number of homes and/or school-age children), location and timing of the proposed development, and that expresses any desire the district may have to obtain a future school site within any portion of the subject property. One copy of all of the above materials (and any associated plans) shall be simultaneously submitted to the city planner and the city engineer for review in order for the application to be deemed complete.

- (4) Sheet materials for drawings; scale. All plat drawings and other corresponding plans and drawings, including engineering plans and landscape and screening plans, shall be on sheets no larger than 24 inches by 36 inches in size, and shall be drawn to a known engineering scale of not smaller than 100 feet to the inch (one inch equals 100 feet) or a larger scale. In cases of large developments which would exceed the dimensions of the sheet at 100-foot scale, plats may be on multiple sheets or to another known engineering scale, as approved by the city manager (or designee), and in a format that will be acceptable for eventual filing with the county.
- (5) City staff review. Upon official submission of a complete application for plat approval, the city shall commence technical review of the development proposal by forwarding a copy of the application and plat to development review team members which include, but shall not be limited to, the city manager, public works director, fire chief/marshal, police chief, chief building official. As noted above, it is the applicant's responsibility to submit one complete copy of any application (including all documents, application forms, plans, etc.) directly to the city planner and city engineer in order for the application to be considered complete. City development review team members shall review the plat and shall ascertain its compliance with these and other applicable city regulations. Following city staff review of the plat and supporting documents, and following discussions with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the applicant shall resubmit additional copies of the corrected plat (and engineering plans, if applicable) to the city manager (or designee) and to the city planner and city engineer no later than seven calendar days prior to the commission meeting for final review and inclusion in the commission packets. Failure to resubmit corrected copies of the plat back to the city in time shall be cause for the city manager (or designee) to forward the plat application to the commission as it was originally submitted rather than the corrected version of the plat. If, upon resubmission of the corrected plat to the city, the city manager (or designee) determines that the application is still incomplete or is not correct to a reasonable extent, the plat application shall be subject to denial.
- (6) Applicant request for waiver. After the plat has been scheduled on an agenda (or at any time prior), the applicant may request, in writing, a waiver of the 30-day approval requirement in order to allow him more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to the city's regulations. After receipt of the request, the city may delay action on the final plat beyond 30 calendar days following the official submission date.
- (7) Action by the commission and city council. All subdivision plat applications (except minor plats and amended plats) shall be reviewed by the commission and if in complete conformance with the provisions of this chapter and with all other applicable regulations of the city, then they shall be approved by the city council.
- (8) Commission review of each plat application. The commission shall review each plat application and shall take action to either recommend approval of the plat application or approval of the application subject to certain conditions, or shall vote to deny the plat application, within 30 calendar days following the official submission date unless the applicant has submitted a written waiver of the 30-day review/approval time pursuant to subsection (e)(6) of this section. The city council shall take action on the plat within 30 calendar days following the commission's action to

recommend approval of the application (or approval with conditions). Affirmation of, or minor modifications to, the commission's recommendation to approve the plat shall require a simple majority vote of the city council members present and voting.

- (9) Disapproval of plat application by commission. If the commission votes to disapprove (i.e., deny) a plat application, the commission shall state such disapproval and the reasons therefor. The applicant or property owner may appeal such decision to the city council by filing a notice of appeal in the office of the city manager (or designee) no later than ten calendar days after the date upon which the commission denied the application. The notice of appeal shall set forth in clear and concise fashion the basis for the appeal. The city council shall consider the appeal at a public meeting no later than 30 calendar days after the date upon which the notice of appeal was filed. The city council may change the decision of the commission by vote of a supermajority (i.e., three-fourths) of the full city council. The city council may also, where appropriate, remand the plat application back to the commission for reconsideration if it believes that there is a compelling reason to do so, such as the introduction of significant new facts or testimony, in which case the commission shall re-review the application, including such new facts or testimony, at its next regularly scheduled meeting.

(f) Simultaneous submission of plats. In the event that an applicant submits construction and final plat applications simultaneously, as provided in section 28.02.004, the city manager (or designee) shall schedule both plat applications for action by the commission within 30 calendar days following the official submission date, unless the applicant has executed a written waiver of the 30-day review period for one or both plats. If the construction plat has not received a favorable recommendation by the commission prior to consideration of the final plat by the commission, then the commission shall have no choice but to deny the final plat application (unless withdrawn by the applicant) and such denial shall be final unless appealed to the city council (see subsection (e)(9)). The city council shall take action on either one or both plat applications, as applicable, within 30 calendar days following the commission's action. Affirmation of, or minor modifications to, the commission's recommendation to approve the plat shall require a simple majority vote of the city council members present and voting.

(g) Proof of land ownership. The city requires proof of land ownership prior to approval of any development application involving real property. Along with the application submission, the applicant shall provide written verification, such as a notarized statement or a power of attorney or other evidence satisfactory to the city manager (or designee), that he is the owner of record of the subject land parcel or parcels, or is the property owner's authorized agent. The city manager (or designee) shall have the authority to determine what documents the city will require to prove ownership, such as one of the following:

- (1) General warranty deed;
- (2) Special warranty deed;
- (3) Title policy; or
- (4) Some other documentation that is acceptable to the city manager (or designee).

If ownership cannot be conclusively established prior to the meeting date on which the development application will be heard, the city shall have the authority to deny the application on the basis of protecting the public interest. The applicant may resubmit a new development application, including the submission fees, for the property at any time following such denial. One copy of the proof of land ownership documents shall be simultaneously submitted to the city planner in order for the application to be deemed complete.

(h) Lapse of plat approval. The approval of any type of plat shall be effective for a period of 183 calendar days beyond the date that the plat was approved by the city council, except as otherwise provided herein. By 12:01 a.m. on the 184th day following city council approval of the plat, the applicant must have completed the next city-required "progress benchmark" as set forth below. If this is not accomplished, then the approved plat shall be deemed to have expired and shall become null and void and a new plat application (along with all other

required paperwork, plans, fees, and the like) must be submitted, reviewed and approved by the city in order to proceed with development of the property. The series of “progress benchmarks” for a project, pursuant to the provisions of this section, are as follows:

<u>Approved Plat or Plan</u>	<u>Next “Progress Benchmark”</u>
Concept plan (voluntary)	Submission of the construction plat (as required by this chapter) and final site plan (if required by the zoning ordinance set out in chapter 30), and continued active engineering review of the engineering plans (which were submitted along with the construction plat and final site plan, if applicable).
Construction plat	All of the following shall occur within 183 calendar days following construction plat approval: (1) city engineer’s approval of engineering plans for all proposed public improvements; and (2) payment of all applicable site development related fees that are traditionally collected prior to release for site construction. In addition to the above, an application for approval of the final plat shall also be submitted to the city within 365 calendar days following actual commencement of site construction in order to avoid lapse of the approved construction plat (unless such is extended or reinstated pursuant to provisions in this chapter).
Final plat	<u>Final plat approved by the city council but not yet filed with the county.</u> Submission of the plat mylars, filing fees and other materials necessary to file the plat at the county shall be submitted to the city within 30 calendar days of the date of final plat approval. An application for a certificate of occupancy shall also be submitted to the city within 183 calendar days following the date of final plat (provided that the final plat is not yet filed at the county), unless such approval is extended or reinstated pursuant to provisions in this chapter. <u>Final plat that has been filed with the county.</u> Valid in perpetuity, unless the filed plat is properly amended or vacated pursuant to the provisions of this chapter.

(i) Extension and reinstatement procedure. Prior to the lapse of approval for a plat, the property owner may petition the city to extend the plat approval. Such petition shall be considered at a public meeting before the commission, which shall recommend approval or denial of the petition. The petition shall then be considered by the city council at its next regularly scheduled meeting (if possible), and an extension may be granted by the city council at such meeting. If no petition for extension of plat approval is submitted by the property owner prior to the expiration date, then the plat shall be deemed to have expired and shall become null and void. In considering whether to grant a request for extension, the commission, and ultimately the city council, shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations would apply to the plat at that point in time. The city council shall either extend the plat (either with or without conditions) or shall deny the request, in which instance the originally approved plat shall be deemed to be null and void. The property owner must thereafter submit a new plat application for approval, and shall conform to the subdivision regulations then in effect. The city council may extend the plat approval subject to additional conditions based upon newly enacted city regulations or state legislation, or such as are necessary to ensure compliance with the original conditions of approval or to protect the public health, safety and welfare. The city council may also specify a shorter time for extension of the plat than the original 183-day approval period.

(j) Lapse of approval of engineering plans. The approved engineering plans shall be valid for a period of 365 calendar days following approval by the city engineer. The city council may, upon written request by the

applicant, grant an extension of up to an additional 365 calendar days, after which the engineering plans shall be subject to reapproval by the city engineer if no construction has occurred.

(2006 Code, sec. 70-32; Ordinance 02-09-549, sec. 2.2, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.02.003 Concept plan approval

(a) Applicability. A concept plan, sometimes referred to as a “preliminary site plan,” a “sketch plan” or a “land study,” is a voluntary plan and is encouraged but not required. Submission and approval of a concept plan can be the first step in the approval process for a residential or nonresidential development project if the applicant prefers to do so. City review and approval of a concept plan has many benefits for both the city and the applicant. The applicant benefits in that he gains preliminary review and scrutiny, as well as input and suggestions, on the overall conceptual layout of the proposed development from the city’s development review team. Approval of a concept plan may also offer the applicant some level of confidence that subsequent plat or plan submissions will be favorably received and approved with few major changes to the project’s overall design and layout. For example, once the construction plat, and corresponding engineering plans, and the final site plan are submitted for a nonresidential project, unforeseen changes in site layout can prove to be expensive in terms of design and engineering costs and time lost during major plan revisions. The city benefits in that it is allowed to become familiar with and involved in the project early in the development process, which is particularly important for large-scale developments and subdivisions. This allows the city to plan for and closely coordinate the provision of public facilities and services, thereby potentially avoiding future problems such as undersized utility lines, inadequate roadway capacities, unanticipated shortfalls in public services, and fiscal inefficiencies resulting from lack of planning and coordination. Submission and approval of a concept plan is encouraged in the following circumstances:

- (1) In conjunction with an application for a major subdivision plat for a property that is intended for development, particularly for large land parcels; or
- (2) In conjunction with any project where a road is to be established or realigned.

(b) Procedures and submission requirements for concept plan approval. The procedures for city review and approval of a concept plan shall be as set forth in the zoning ordinance for the city in chapter 30 of this code.

(c) Purpose. The purpose of a concept plan, as it pertains to this chapter, is to allow opportunity for the commission and city council to “preview” proposed major thoroughfare and collector street patterns; land use patterns and trends; environmental issues and constraints; conformance to the comprehensive plan, future land use plan, thoroughfare plan, parks and open space plan, water and sewer master plans, and other applicable plans of the city; and, if the subject property is within the city’s corporate limits, the zoning ordinance set out in chapter 30; and the property’s relationship to adjoining subdivisions or properties. Review of a concept plan would also assist the city in evaluating the possible impacts of the proposed development in terms of provision of essential public facilities and services, respecting and preserving important natural features and the environment, provision of open space and recreational opportunities, and protecting the general health, safety and welfare of the community.

(d) Extent of area that should be included in a concept plan. When the overall development project is to be developed in phases, the concept plan area shall include the entire property from which the phases are being subdivided and an approximate development schedule. Where significant natural or man-made features, such as thoroughfares or creeks, make inclusion of the entire property in the concept plan unnecessary to adequately review the items listed in subsection (c) of this section, the concept plan may include a smaller study area. Boundaries such as major thoroughfares, whether existing or proposed, creeks and major drainageways, political subdivisions, or other such natural or man-made features may be used to delineate the smaller study area if approved by the city manager (or designee) and the city planner.

(2006 Code, sec. 70-33; Ordinance 02-09-549, sec. 2.3, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.02.004 Procedures and submission requirements for construction plat approval

(a) Preparation of construction plat. Following the pre-application conference (as described in section 28.02.003 [28.02.001]) regarding the overall general development strategy for the property, the applicant shall have prepared a construction plat together with full engineering plans for the construction of the subdivision and all associated public improvements and other supplementary materials, as required by this chapter or by the city.

(b) Portion to be included. The construction plat shall constitute only that portion of the property or subdivision which the applicant proposes to construct and record provided, however, that such portion conforms to all the requirements of this chapter and with any other applicable regulations and codes of the city.

(c) Contiguous property to be included; phasing of overall development. A construction plat, if not preceded by an approved concept plan showing phasing of the overall development, shall include all contiguous property under the ownership or control of the applicant unless otherwise approved by the city manager (or designee) and the city planner. It may contain more than one phase which, if so, shall be clearly identified.

(d) Option to submit final plat concurrently with construction plat. The applicant may choose to submit a final plat for review concurrently with the construction plat. In such case, the city may schedule concurrent review of both plats, provided that all required information and other items are submitted for both plats, including full engineering plans and the appropriate assurances for the completion of all improvements, as per article 28.06 of this chapter, and provided that adequate review can be achieved by the city. If the city, due to staff resources or other factors, cannot complete its review of both plats, and other associated materials, prior to the applicable planning and zoning commission meeting, then only the construction plat shall be considered for approval and the final plat shall be denied unless the 30-day review requirement is waived in writing by the applicant.

(e) Approval deemed as general approval of street and lot layout. Approval of a construction plat by the city council shall be deemed general approval of the street and lot layout shown on the construction plat (approval for construction of the necessary streets, water lines, sewer lines, and other required improvements and utilities shall be authorized only through the city engineer's approval of the engineering plans), and to the preparation of the final or record plat when construction of all required public improvements is nearing completion (or when appropriate surety for completion is provided to the city). Except as provided for herein, approval of the construction plat shall constitute conditional approval of the final plat when all conditions of approval and when all procedural requirements set forth in this chapter have been met, and when construction of all improvements (or surety provided) are satisfactorily completed.

(f) Standards for approval. No construction plat shall be recommended for approval by the commission or approved by the city council unless the following standards have been met:

- (1) The plat substantially conforms with the approved concept plan, if there is one, and with other studies and plans, as applicable;
- (2) The layouts and engineering plans for required public improvements and city utilities have been submitted by the applicant for approval by the city engineer (whether specifically stated or not, construction plat approval shall always be subject to any additions or alterations to the engineering plans as deemed necessary by the city engineer, as needed, to ensure the safe, efficient and proper construction of public improvements within the subdivision); and
- (3) The plat conforms to the comprehensive plan and to applicable zoning and other city regulations.

(g) Construction plat approval necessary before construction work begins. No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the construction plat by the city council, nor prior to issuance of all appropriate construction permits by the city and other appropriate entities or agencies. The applicant shall also provide copies of letters from applicable local utility companies stating that each utility company has reviewed the construction plat and stating any requirements, including easements, they may have. This requirement may be deferred until the final plat is submitted if such deferral request is submitted to the city in writing and approved by the city manager (or designee) prior to the commission meeting at which

the construction plat will be considered. No excavation, grading, tree removal or site clearing activities shall occur prior to approval of the construction plat and the engineering plans. However, preliminary grading or site preparation activities, such as limited excavation, filling, and removal or clearing of brush, undergrowth or man-induced debris, may be authorized by the city manager (or designee), at his discretion, if such request is submitted in writing by the property owner or developer, if such activities are in conformance with all applicable city ordinances and codes, and if such activities will not be detrimental to the public health, safety or general welfare (see section 28.06.008(b)).

(h) Information required upon or with construction plat. The proposed construction plat and associated engineering plans shall show the following information (the construction plat itself shall only include those items marked by *italics* - other physical and engineering data shall be included in the engineering plans or as separate documents):

- (1) *A vicinity, or location, map that shows the location of the proposed construction plat within the city (or within its extraterritorial jurisdiction) and in relationship to existing roadways;*
- (2) *Boundary lines, abstract/survey lines, corporate and other jurisdictional boundaries, existing or proposed highways and streets (including right-of-way widths), bearings and distances sufficient to locate the exact area proposed for the subdivision, and all survey monuments (identified and labeled; see section 28.05.002 for specifications) including any required concrete monuments (per the city's planner and/or engineer); the length and bearing of all straight lines, radii, arc lengths, tangent lengths and central angles of all curves shall be indicated along the lines of each lot (curve and line data may be placed in a table format); accurate reference ties via courses and distances to at least one recognized abstract or survey corner or existing subdivision corner shall be shown;*
- (3) *The name, location and recording information of all adjacent subdivisions (or property owners of adjacent unplatted property), including those located on the other sides of roads or creeks, shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, alleys, building setbacks, lot and block numbering, easements, and other features that may influence the layout of development of the proposed subdivision; adjacent unplatted land shall show property lines, the names of owners of record; and the recording information;*
- (4) *The location, widths and names of all streets, alleys and easements (it shall be the applicant's responsibility to coordinate with appropriate utility entities for placement of necessary utility easements and for location of all streets and median openings on highways or arterial roadways), existing or proposed, within the subdivision limits and adjacent to the subdivision; a list of proposed street names shall be submitted (in the form of a letter or memo along with the application form) for all new street names (street name approval is required at the time the construction plat is approved);*
- (5) *The location of all existing property lines, existing lot and block numbers and date recorded, easements of record (with recording information), buildings, existing sewer or water mains (can be shown on a separate sheet, if preferred), gas mains or other underground structures, or other existing features within the area proposed for subdivision;*
- (6) *Proposed arrangement and square footage of lots (including lot and block numbers) and proposed use of same; for nonresidential uses, the location and size of buildings (this information may be provided on a separate sheet, such as on a voluntary concept plan or the final site plan; see the zoning ordinance set out in chapter 30);*
- (7) *A title block within the lower right-hand corner of the plat (and engineering plans) which shows the title or name under which the proposed subdivision is to be recorded; the name, address and phone number of the property owner; the name, address and phone number of the land planner, licensed engineer or registered professional land surveyor who prepared the plat/plans; the scale of the plat/plans; the date the plat/plan was prepared; and the location of the property according to the*

abstract or survey records of the county; the subdivision name shall not duplicate (or too closely phonetically replicate) the name of any other platted subdivision in the city, its extraterritorial jurisdiction, or other surrounding communities in the county, but phasing identification is allowed to be similar to previous phases of that particular development (it is the property owner's responsibility to check the plat records of the county to ensure that the proposed subdivision name will not duplicate or sound too much like a subdivision name already in existence - the city may, at its discretion, require a different subdivision name if there is potential for confusion by public safety officials or the general public);

- (8) *Sites, if any, to be reserved or dedicated for parks, schools, playgrounds, other public uses or for private facilities or amenities;*
- (9) *Scale (including a graphic scale), date, north arrow oriented to the top or left side of the sheet, and other pertinent informational data;*
- (10) *Contours with intervals of two feet or less shown for the area, with all elevations on the contour map referenced to sea level datum; and the limits of any portion of the 100-year floodplain (pursuant to the flood study, if required by the city engineer) that may be within or adjacent to (i.e., within 100 feet of) the property (final monumentation of the floodplain shall occur, and shall be shown, on the final plat prior to approval and filing with the county) - if no floodplain present, then a note stating this shall be shown on the plat;*
- (11) *Areas contributing drainage to the proposed subdivision shall be shown in the engineering plans; locations proposed for drainage discharge from the site shall be shown by directional arrows;*
- (12) *All physical features of the property to be subdivided shall be shown, including the location and size of all watercourses, 100-year floodplain according to Federal Emergency Management Agency (FEMA) information, U.S. Army Corps of Engineers flowage easement requirements, ravines, bridges, culverts, existing structures, drainage area in acres or area draining into subdivisions (only in the engineering plans), the outline of major wooded areas or the location of major or important individual trees, and other features pertinent to subdivision;*
- (13) *Engineering plans of water and sewer lines and other infrastructure (including sizes) to be constructed in the subdivision; the proposed connections to distribution mains shall be indicated;*
- (14) *Proposed phasing of the development; where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the construction plat, shall provide a schedule of development; the dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision; the city council shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or for such phases as the city council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;*
- (15) *All construction plats shall be submitted in a legible format that complies with the county requirements for the filing of plats, and shall be drawn on a good grade blue line or black line paper;*
- (16) *Existing or proposed zoning of the subject property and all adjacent properties;*
- (17) *Minimum finished floor elevations of building foundations shall be shown for lots adjacent to a floodplain or within an area that may be susceptible to flooding;*

- (18) *Certificates and other language shall be included on the plat, pursuant to the following subsections:*
- (A) *A statement that the subdivided area is legally owned by the applicant.*
 - (B) *An accurate legal, such as by metes and bounds, description by bearings and distances (including necessary curve and line data), accurate to the nearest one-hundredth of a foot, for all boundary, block and lot lines, with descriptions correlated to a permanent survey monument.*
 - (C) *A statement signed by the property owner and acknowledged before a notary public as to the authenticity of the signatures, saying that the property owner adopts the plat as shown, described and named, and that he does dedicate, in fee simple, to the public use forever the streets, alleys and easements shown on the plat. The property owner further reserves any easement areas shown for mutual use of all public utilities desiring to use the easement. Any public utility shall have the right to remove and keep removed all or any part of any vegetative growth or other appurtenance for construction or maintenance, or efficiency of its respective system in these easements and all or any part of, any growth or construction which in any way hinders or interferes with the right of ingress and egress to these easements for any necessary use without asking anyone's permission.*
 - (D) *The registered professional land surveyor's certificate, with a place for his signature and notarization of his signature.*
 - (E) *A place for plat approval signature of the mayor (or mayor pro tem, in the mayor's absence) [and] of the city council, a place for the city secretary to attest such signature, and the approval dates by the planning and zoning commission and city council.*
 - (F) *Following are the certificates and languages to be used on the plat to accommodate the above requirements:*
 - (i) *Property owner's certificate (required):*

STATE OF TEXAS
COUNTY OF _____

WHEREAS, _____ Name(s) is(are) the Owner(s) of a tract of land situated in the _____ Survey, Abstract No. _____, Collin County, Texas and being out of a _____ acre tract conveyed to him(them) by _____, and a _____ acre tract conveyed to him(them) by _____, and being more particularly described as follows:

(Enter accurate metes and bounds property description here, with total land area shown in both acreage and square footage.)

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That _____, acting herein by and through his(its) duly authorized officer(s), does hereby adopt this plat designating the herein above described property as _____, an addition to the City of Murphy, Texas, and does hereby dedicate, in fee simple, to the public use forever, the streets, rights-of-way, and other public improvements shown thereon. The streets and alleys, if any, are dedicated for street purposes. The easements and public use areas, as shown, are dedicated, for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in

landscape easements, if approved by the City Council of the City of Murphy. In addition, utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the public's and City of Murphy's use thereof. The City of Murphy and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in said easements. The City of Murphy and public utility entities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the City of Murphy, Texas.

WITNESS, my hand, this the _____ day of _____, 20____.

BY: _____

Authorized signature of owner (use additional signature lines, if necessary)

Printed name and title

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, owner, 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 considerations therein expressed.

Given under my hand and seal of office, this _____ day of _____, 20____.

Notary Public in and for the State of Texas

My commission expires on:

(Use additional notary blocks, if necessary, for additional owners)

(ii) *Surveyor's certificate (required):*

KNOW ALL MEN BY THESE PRESENTS:

That I, _____, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon as "set" were properly placed under my personal supervision in accordance with the Subdivision Ordinance of the City of Murphy.

(seal)

Signature of Registered Public Land
Surveyor
Registration No. _____

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, Registered Public Land Surveyor, 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 considerations therein expressed.

Given under my hand and seal of office, this _____ day of _____, 20____.

Notary Public in and for the State of Texas

My commission expires on _____

(iii) *Approval block (required):*

CITY APPROVAL OF CONSTRUCTION PLAT

Approved for preparation of final plat following construction of all public improvements (or appropriate sureties thereof) necessary for the subdivision shown on this plat.

RECOMMENDED BY:	Planning and Zoning Commission City of Murphy, Texas
_____ Signature of Chairperson	_____ Date of Recommendation
APPROVED BY:	City Council City of Murphy, Texas
_____ Signature of Mayor	_____ Date of Approval
ATTEST:	
_____ City Secretary	_____ Date

(iv) *Special notice (required):*

NOTICE: Selling a portion of this addition by metes and bounds is a violation of City ordinance and State law, and is subject to fines and withholding of utilities and building permits.

(v) *Visibility, access and maintenance easements (to be used if applicable):*

The area or areas shown on the plat as “VAM” (Visibility, Access and Maintenance) Easement(s) are hereby given and granted to the City, its successors and assigns, as an easement to provide visibility, right of access for maintenance upon and across said VAM Easement. The City shall have the right but not the obligation to maintain any and all landscaping within the VAM Easement. Should the City exercise this maintenance right, then it shall be permitted to remove and dispose of any and all landscaping improvements, including without limitation, any trees, shrubs, flowers, ground cover and fixtures. The City may withdraw maintenance of the VAM Easement at any time. The ultimate maintenance responsibility for the VAM easement shall rest with the owners. No building, fence, shrub, tree or other

improvements or growths, which in any way may endanger or interfere with the visibility, shall be constructed in, on, over or across the VAM Easement. The City shall also have the right but not the obligation to add any landscape improvements to the VAM Easement, to erect any traffic-control devices or signs on the VAM Easement and to remove any obstruction thereon. The City, its successors, assigns, or agents shall have the right and privilege at all times to enter upon the VAM Easement or any part thereof for the purposes and with all rights and privileges set forth herein.

(vi) *Fire lanes (to be used if applicable):*

That the undersigned does hereby covenant and agree that he (they) shall construct upon the fire lane easements, as dedicated and shown hereon, a hard surface in accordance with the City of Murphy's paving standards for fire lanes, and that he (they) shall maintain the same in a state of good repair at all times and keep the same free and clear of any structures, fences, trees, shrubs, or other improvements or obstruction, including but not limited to the parking of motor vehicles, trailers, boats or other impediments to the accessibility of fire apparatus. The maintenance of paving on the fire lane easements is the responsibility of the owner, and the owner shall post and maintain appropriate signs in conspicuous places along such fire lanes, stating "Fire Lane, No Parking or Standing." The local law enforcement agency(s) is hereby authorized to enforce parking regulations within the fire lanes, and to cause such fire lanes and utility easements to be maintained free and unobstructed at all times for fire department and emergency use.

(vii) *Access easements (to be used if applicable):*

The undersigned does covenant and agree that the access easement may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of general public vehicular and pedestrian use and access, and for fire department and emergency use in, along, upon and across said premises, with the right and privilege at all times of the City of Murphy, its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises.

(viii) *Other plat language. The plat shall include any other applicable language, such as for drainage, floodway or other special types of easements, or such as for a private street subdivision, as deemed appropriate and necessary by the city for the purpose of protecting the public health, safety and welfare. Applicable plat languages are available upon request at the city.*

(i) Engineering plans. Along with the construction plat application, the applicant shall submit the required number of sets of the complete engineering plans for all streets, alleys (if any), storm sewers and drainage structures, water and sanitary sewer facilities, screening and retaining walls, landscaping and irrigation, and any other required public improvements for the area covered by the construction plat. The engineering plans shall also contain any plans deemed necessary to show or document compliance with the city's ordinances pertaining to nonpoint source pollution control, and any other applicable codes and ordinances of the city that are related to development of a land parcel. The engineering plans shall be on sheets no larger than 24 inches by 36 inches in size. Cost estimates for the completion of all public improvements shall also be submitted with the engineering plans for review (and approval, if necessary) by the city's engineer.

(1) For the purposes of this chapter, complete sets of engineering plans shall include the following plans or sheets (generally in this order), as well as any additional plans or sheets deemed necessary and requested by the city engineer:

(A) Cover or title sheet (with list of all plans);

- (B) Construction plat;
 - (C) Final site plan (for nonresidential and multifamily projects only, see the zoning ordinance set out in chapter 30 for specific requirements and approval procedures);
 - (D) Existing conditions plan (unless these items are shown on the construction plat itself), which shows existing topography, vegetation, tree inventory, existing natural and man-made physical features, and the like;
 - (E) Existing tree and vegetation protection plan;
 - (F) Grading, erosion control, and water quality control plans (including a SWPPP);
 - (G) Paving and storm drainage plans;
 - (H) Utility plans for water, sanitary sewer, and the like;
 - (I) Traffic control plans (if necessary);
 - (J) Screening and retaining wall plans;
 - (K) Landscaping and irrigation plans (irrigation plan can be generalized, and must show 100 percent coverage of required landscape areas and use of double check valves, automatic controllers, and automatic moisture and freeze sensors).
- (2) The applicant shall have these plans prepared by their own professional engineer, subject to approval of the plans by the city engineer. The city engineer (or designee) shall review, or cause to be reviewed, the plans and specifications and if approved, shall mark them “approved” and shall return one set to the applicant, and at least two sets shall be retained in the city’s files. If not approved, then one set shall be marked with the objections noted (on the plans themselves and/or in memo format, a copy of which shall also be sent to the city) and returned to the applicant for correction, whereupon the applicant’s engineer shall correct the plans as requested and shall resubmit them back to the city engineer for re-review. Once the engineering plans are approved by the city engineer (as documented by an approval memo addressed to the applicant and copied to the city), the property owner shall provide additional sets of the approved plans to the city, as specified by the city engineer, for use during construction. A full set of the city-approved and stamped engineering plans must be available for inspection on the job site at all times.
- (3) After approval of the construction plat by the city council, approval of the engineering plans and specifications by the city engineer, and following procurement of all applicable permits from other appropriate agencies (such as TxDOT, TCEQ, U.S. Army Corps of Engineers, FEMA, NTMWD and/or the county), the applicant shall cause a contractor to install or construct the public improvements in accordance with the approved plans and the city’s standard specifications, and at the applicant’s expense (also see article 28.06 of this chapter). The applicant shall employ engineers, surveyors or other professionals as necessary to design, stake, supervise, perform and complete the construction of such improvements, and shall cause his contractor to construct the said improvements in accordance with this chapter and with the city’s, and any other applicable agency’s, design standards. If the project will require a FEMA map revision, then the proposed plans shall also be reviewed for compliance with the city’s flood damage prevention code (article 24.10 of the city’s Code of Ordinances, as amended) prior to approval of the construction plat and prior to any construction activities (including but not limited to grading, clearing, grabbing, brush removal, and the like) on the site.
- (4) Engineering plans shall be prepared by or under the direct supervision of a professional engineer licensed in the state, as required by state law governing such professions and in accordance with this chapter and the city’s technical construction standards and specifications (TCSS). All

engineering plans submitted for city review shall be dated and shall bear the responsible engineer's registration number, his designation of "professional engineer" or "P.E.," and the engineer's seal. Engineering plans shall be approved by the city engineer only when such plans meet all of the requirements of this chapter and the TCSS.

- (5) Engineering plans shall be in conformance with the technical construction standards and specifications (TCSS) and with the requirements set forth herein. Engineering plans (in complete sets, as described in subsection (i)(2) of this section) showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers, sidewalks, screening and retaining walls, landscape and irrigation plans (if appropriate), and other engineering details of the proposed subdivision at a scale of one inch equals 40 or 50 feet horizontally and one inch equals four, five, or ten feet vertically shall be submitted to the city engineer (or designee) along with a copy of the construction plat of the subdivision. The number of copies as specified by the city shall be submitted along with the construction plat submittal.
- (6) As part of the engineering plans, a drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under consideration shall be submitted. The drainage plan shall be made available to each builder within the proposed subdivision and all builders shall comply with the drainage plan.
- (j) Effect of approval. Approval of a construction plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon construction of all required improvements (or submission of the proper assurances for construction of same, per article 28.06 of this chapter), to submit an application for final plat approval (see section 28.02.005).
- (k) Revisions to approved construction plat. It is generally recognized that minor revisions to the construction plat will probably be needed before the final plat is approved and filed at the county. Such minor revisions as slight enlargement or shifting of easements or lot lines, addition of private or franchise utility easements, correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. may occur on the final plat without having to reapprove the construction plat. Determination of whether or not revisions are "minor" in nature is subject to the judgment of the city's planner and engineer. Major revisions, such as obvious reconfiguration of lot lines or easements, relocation of driveways or access easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation or addition or deletion of any public improvement (including corresponding easement), shall necessitate resubmission and reapproval of the plat as a "revised construction plat" unless otherwise approved by the city planner and the city engineer, as applicable. The procedures for such reapproval shall be the same as for a construction plat, and such reapproval shall constitute a new project thus necessitating submission of a new application form, payment of new fees, compliance with amendments to this chapter which occurred since original construction plat approval, and other requirements.

(2006 Code, sec. 70-34; Ordinance 02-09-549, sec. 2.4, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.02.005 Procedures and submission requirements for final plat approval

(a) Generally. The final plat shall be in accordance with the construction plat, as approved, and shall incorporate all applicable conditions, changes, directions and additions imposed by the planning and zoning commission and city council upon the construction plat. The final plat shall not be recommended for approval by the city council, until all utilities, infrastructure, and other required improvements have been constructed in conformance with city standards and the engineering plans, as approved by the city engineer, unless provisions are made for the completion of the improvements in accordance with article 28.06 of this chapter. If the final plat is not in accordance with the approved construction plat, it must be recommended for approval by both the planning and zoning commission and the city council. The final plat shall not be submitted prior to approval of the construction plat (see section 28.02.004(d) for exception).

(b) Incomplete applications. Final plat applications which do not include the required data, completed application form, submission fee, number of copies of the plat, record drawings, "Letter of Satisfactory

Completion” (of the public improvements) from the city, and other required information, including documentation that all required public improvements have been constructed and installed in accordance with city standards, letters from utility companies verifying their easements, and submission of the proper assurances or escrow funds for the completion of the improvements (per article 28.06 of this chapter) will be considered incomplete, shall not be accepted for submission by the city, and shall not be scheduled on a planning and zoning commission or city council agenda until the proper information is provided to city staff.

(c) Required information. Information required on a final plat shall be as follows:

- (1) All information that is required for a construction plat (see section 28.02.004(h)), except for submission of engineering plans, provided that such plans were already submitted and approved with the construction plat; and except that physical features of or on the land (such as topography, buildings, utility structures, water bodies and tree cover) shall not be shown on the final plat. In addition to these items, the final plat shall also provide a place for the county clerk to stamp the date and location where the plat will be filed (“Volume or Cabinet _____, Page or Slide _____”) in the lower right-hand corner of all sheets of the plat drawing near the title block.
- (2) All aspects of the final plat shall conform to the standards of the county for plats with respect to clarity, sheet size, lettering size and reproducibility, and the county’s formatting requirements for same shall control if different from this chapter. It is the applicant’s responsibility to be familiar with the county’s standards for filing plats and to comply with same.
- (3) Approval block (required). The approval block used on the previously approved construction plat shall be modified and shown on the final plat, as follows:

FINAL PLAT

Approved by the City of Murphy for filing at the office of the County Clerk of Collin County, Texas.

APPROVED BY:

City Council
City of Murphy, Texas

Signature of Mayor

Date of Approval

ATTEST:

City Secretary

Date

- (4) Property location statement (if required by the county):

This property is located in the corporate limits (or the extraterritorial jurisdiction) of the City of Murphy, Collin County, Texas.

Mayor, City of Murphy

Date

ATTEST:

City Secretary, City of Murphy

Date

(d) Standards for approval. No final plat shall be reviewed by the commission or approved by the city council unless the following standards have been met:

- (1) The plat substantially conforms with the approved construction plat and other studies and plans, as applicable;

- (2) The construction and installation of required public improvements and city utilities has been completed and the improvements have been accepted by the city as conforming to the city's regulations and design standards (or the proper assurances for construction of the improvements have been submitted and approved by the city, per article 28.06 of this chapter); and
 - (3) The plat conforms to the comprehensive plan and to applicable zoning, subdivision and any other applicable codes or ordinances of the city that are related to development of a land parcel.
- (e) Acceptance by city. When all of the improvements are found to be constructed and completed in accordance with the approved plans and specifications and with the city's standards, and upon receipt by the city of a maintenance bond or certificate of deposit in accordance with article 28.06 of this chapter from each contractor, three sealed sets of "as-built" (or "record drawing") plans and one sealed set of "as-built" or "record drawing" mylars and a digital copy of all plans (in a format as determined by the city engineer) shall be submitted with a letter stating the contractors' compliance with this chapter, and bearing sealed certification by the design engineer that all public improvements have been constructed in compliance with all city construction standards set forth in the TCSS and other applicable city design documents. After such letter and certification is received, the city council shall receive and accept for the city the title, use and maintenance of the improvements according to section 28.06.007. The final plat shall not be approved or filed at the county prior to receipt of the above letter and certification and any other required items, nor prior to acceptance of the improvements by the city.
- (f) Timing of public improvements.
- (1) The city council may permit all or some of the public improvements to be installed, offered for dedication, or accepted by the city after approval of the final plat by the city council if there exists a compelling reason that is consistent with the public health, safety or welfare to do so (also see article 28.06 of this chapter). The city council may permit or require the deferral of the construction of public improvements if, in its judgment, deferring the construction would not result in any harm to the public or would offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. The deferred construction of any required public improvement must be approved by the city council at the time of construction plat approval, and the necessary assurances for completion of the improvements, in accordance with article 28.06 of this chapter, shall be a stipulation, or condition, of approval of the construction or final plat, as appropriate.
 - (2) If the city council does not require that all public improvements be installed, offered for dedication, or accepted by the city prior to approval of the final plat, the applicant shall provide assurances or security for the completion of the improvements or escrowed funds, as provided in article 28.06.
- (g) Effect of approval. Approval of a final plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon completion of construction of all required improvements (or submission of the proper assurances for construction of same, per article 28.06 of this chapter), to submit the final copies, or mylars, of the plat for filing with the county. Lots may be sold only when the final plat has been approved by the city council and the plat has been filed with the county. No conveyance or sale of any portion or lot of the property may occur until after the final plat is approved by the city council and filed with the county.
- (h) Revisions to approved final plat prior to filing at the county. Occasionally, minor revisions are needed before the final plat can be filed at the county. Such minor revisions as correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, and the like may occur on the record plat prior to filing it without the city council having to reapprove the final plat. Determination of whether or not revisions are "minor" in nature is subject to the judgment of the city's planner and engineer. Major revisions, such as obvious corrections or reconfiguration of lot lines or easements, relocation of driveways or access easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation or addition or deletion of any public improvement (including corresponding easement), shall necessitate resubmission and reapproval of the plat as a "revised final plat" unless otherwise approved by

the city planner and the city engineer, as applicable. The procedures for such reapproval shall be the same as for a final plat, and such reapproval may constitute a new project thus necessitating submission of a new application form, payment of new fees, compliance with amendments to this chapter which occurred since original final plat approval, and other requirements.

(i) Filing of final plat. Subsequent to final plat recommendation by the planning and zoning commission and subsequent approval by the city council, the applicant shall return copies of the final plat, as approved, along with any other required documents and necessary fees, to the city manager (or designee) within 30 calendar days following approval, in accordance with requirements established by the city. All easements shall be included on the final plat, including the recording information for those easements that are filed or recorded as separate instruments, as required by utility companies and the city prior to filing the final plat, and a copy of letters from each applicable utility company shall be submitted to the city manager (or designee), and a copy of same shall be submitted to the city planner and the city engineer, stating that the plat contains the proper easements. All necessary filing materials as required by the county clerk, in addition to the appropriate number of mylar copies and a computer disk containing the digital plat files required by the city manager (or designee), shall be returned to the city secretary with the required fees. If the required copies and materials are not returned to the city within the specified 30-day time frame, the approval of the final plat shall be null and void unless an extension is granted by the city council. The city secretary shall cause the final plat to be filed at the office of the county clerk within 30 calendar days following receipt of all filing materials, including filing fees.

(2006 Code, sec. 70-35; Ordinance 02-09-549, sec. 2.5, adopted 9/3/02; Ordinance 13-05-950, sec. 5, adopted 5/7/13; Ordinance 13-11-962, sec. 3, adopted 11/19/13; Ordinance adopting 2015 Code)

Sec. 28.02.006 Development plats

(a) Authority. This section is adopted pursuant to the V.T.C.A., Local Government Code secs. 212.041–212.050, as amended.

(b) Applicability. For purposes of this section, the term “development” means the construction of any building, structure or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. This section shall apply to any land lying within the city or within its extraterritorial jurisdiction in the following circumstances:

- (1) The development of any tract of land which has not been platted or replatted prior to the effective date of this chapter, unless expressly exempted herein;
- (2) The development of any tract of land for which the property owner claims an exemption from this chapter, including requirements to replat, which exemption is not expressly provided for in such regulations;
- (3) The development of any tract of land for which the only access is a private easement or street; or
- (4) The division of any tract of land resulting in parcels or lots each of which is greater than five acres in size, and where no public improvement is proposed to be dedicated or constructed.

(c) Exceptions. No development plat shall be required, where the land to be developed has received final plat or replat approval prior to the effective date of the ordinance from which this chapter is derived. The city council may, from time to time, exempt other development or land divisions from the requirements of this section.

(d) Prohibition on development. No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued, for any development or land division subject to this section, until a development plat has been reviewed by the commission, approved by the city council, and submitted to the city for filing at the county. Notwithstanding the provisions of this section, the city shall not require building permits or otherwise enforce the city’s building code in the city’s extraterritorial jurisdiction in relation to any development plat required by this chapter.

(e) Standards of approval. The development plat shall not be approved until the following standards have been satisfied:

- (1) The proposed development conforms to all city plans, including but not limited to, the comprehensive plan, utility plans and applicable capital improvements plans;
- (2) The proposed development conforms to the requirements of the zoning ordinance set out in chapter 30 (if located within the city's corporate limits) and this chapter;
- (3) The proposed development is adequately served by public facilities and services, parks and open space in conformance with city regulations;
- (4) The proposed development will not create a safety hazard on a public roadway (such as by not providing adequate on-site parking or vehicle maneuvering space for a restricted access/gated entrance);
- (5) Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and
- (6) The proposed development conforms to the design and improvement standards contained in this chapter and in the city's TCSS, and to any other applicable codes or ordinances of the city that are related to development of a land parcel.

(f) Conditions. The city council may impose such conditions on the approval of the development plat as are necessary to assure compliance with the standards in subsection (e) of this section.

(g) Approval procedure. The application for a development plat shall be submitted to the city in the same manner as a final plat (see section 28.02.005), and shall be approved, conditionally approved, or denied by the city council following review and recommendation by the planning and zoning commission in a similar manner as a final plat. Upon approval, the development plat shall be filed at the county by the city secretary in the same manner as prescribed for a final plat (see section 28.02.005), and approval of a development plat shall expire if all filing materials are not submitted to the city manager (or designee) and if the plat is not filed at the county within the time periods specified for a final plat.

(h) Submittal requirements. In addition to all information that is required to be shown on a final plat (see section 28.02.005), a development plat shall:

- (1) Be prepared by a registered professional land surveyor;
- (2) Clearly show the boundary of the development plat;
- (3) Be accompanied by a site plan showing 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 (the site plan shall also show all other site plan items listed in the city's zoning ordinance set out in chapter 30 for informational purposes);
- (4) Show all easements and rights-of-way within or adjacent to the development plat; and
- (5) Be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the city's current fee schedule as printed in appendix A to this code), and a certificate or some other form of verification from the county central appraisal district

showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with section 28.01.010.

A copy of all application materials for a development plat shall be simultaneously submitted to the city planner for review in the same manner as for a final plat, or the application shall be deemed incomplete.

(2006 Code, sec. 70-36; Ordinance 02-09-549, sec. 2.7, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.02.007 Replatting

(a) Replat required. Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved and filed final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the final platting of land by this chapter. All improvements shall be constructed in accordance with the same requirements as for a construction or final plat, as provided herein. The city manager (or designee) may waive or modify requirements for a preliminary replat under certain circumstances where the proposed replat does not involve a large land parcel or an existing structure or business on the subject property, and where the proposed plat revisions are relatively simple in nature.

(b) Replatting without vacating preceding plat. A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- (1) Is signed and acknowledged by only the owners of the property being replatted;
- (2) Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard by the planning and zoning commission and by the city council; and
- (3) Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.

(c) Previous requirements or conditions of approval which are still valid. In addition to compliance with subsection (b) of this section, a replat without vacation of the preceding plat must conform to the requirements of this section if:

- (1) During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
- (2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

Notice of the public hearing required under subsection (b) of this section shall be given before the 15th calendar day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in the county. Notice of the public hearing shall also be given by written notice before the 15th calendar day before the date of the hearing, with a copy or description of any requested waivers/suspensions, sent to the property owners, as documented on the most recently approved ad valorem tax roll of the city, of lots that are in the original subdivision and that are within 200 feet of the lot to be replatted. In the case of a subdivision in the extraterritorial jurisdiction, the most recently approved county tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with appropriate postage paid, in a post office or postal depository within the boundaries of the city.

(d) Protest. If the property owners of 20 percent or more of the total land area of lots to whom notice is required to be given under subsection (b) of this section file with the city a written protest of the replatting before or at the public hearing, or if the replat requires a waiver/suspension as defined in section 28.01.009, then approval of the replat will require the affirmative vote of at least three-fourths of the full city council. For a legal protest, written instruments signed by the owners of at least 20 percent of the total land area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within

the original subdivision, must be filed with the city prior to the close of the public hearing. In computing the percentage of land area subject to the “20 percent rule” described in this subsection, the area of streets and alleys shall be included.

(e) Exception to public hearing notice requirements. Compliance with subsection (c) of this section is not required for approval of a replat for any part of a preceding plat if the area to be replatted was designated or reserved for other than single-family or two-family (i.e., duplex) residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat. For example, for a replat involving nonresidential property, a public hearing must be held, pursuant to subsection (b)(2) of this section, but notice of the hearing does not have to appear in the newspaper and written notices do not have to be mailed to individual property owners within 200 feet of the subject property.

(f) Reference to original subdivision boundaries and recording information. Any replat which adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have changed along with a detailed “Purpose for Replat” statement.

(g) When previous plat vacated. If the previous plat is vacated as prescribed in V.T.C.A., Local Government Code sec. 212.013, as amended, and as provided in section 28.02.009, a public hearing is not required for a replat of the area vacated. It would, instead, be submitted as a “final plat” and reviewed accordingly.

(h) Compliance with final plat requirements. The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein.

(i) Title identification. The title shall identify the document as a “Final Plat” of the “_____ Addition, Block _____, Lots(s) _____, Being a Replat of Block _____, Lot(s) _____ of the _____ Addition, an addition to the City of Murphy, Texas, as recorded in Volume/Cabinet _____, Page/Slide _____ of the Plat Records of Collin County, Texas.”

(j) Application submittal. An application submittal for a replat shall be the same as for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the city’s current fee schedule as printed in appendix A to this code), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with section 28.01.010. The replat shall also bear a detailed “Purpose for Replat” statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the city and filed at the county. A copy of all application materials for a replat shall be simultaneously submitted to the city planner for review in the same manner as for a final plat, or the application shall be deemed incomplete.

(k) Filing of replat. The replat shall be filed at the county in the same manner as prescribed for a final plat, and approval of a replat shall expire if all filing materials are not submitted to the city secretary, and if the replat is not filed at the county within the time periods specified for a final plat.

(2006 Code, sec. 70-37; Ordinance 02-09-549, sec. 2.8, adopted 9/3/02; Ordinance adopting 2015 Code)

State law references—Replating without vacating preceding plat, V.T.C.A., Local Government Code, sec. 212.014; additional requirements for certain replats, V.T.C.A., Local Government Code, sec. 212.015.

Sec. 28.02.008 Amending plats

(a) An amended plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the city’s current fee schedule as printed in appendix A to this code), and certificate or some other acceptable form of verification from the county central appraisal district showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with

section 28.01.010. A copy of all application materials for an amending plat shall be simultaneously submitted to the city planner for review in the same manner as for a final plat, or the application shall be deemed incomplete.

(b) Upon receipt of a favorable recommendation for approval from the city planner, the mayor or city manager (or designee) may approve an amending plat, which may be recorded and is controlling over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this section. The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:

- (1) Correct an error in a course or distance shown on the preceding plat;
- (2) Add a course or distance that was omitted on the preceding plat;
- (3) Correct an error in a real property description shown on the preceding plat;
- (4) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- (6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- (7) Correct an error in courses and distances of lot lines between two adjacent lots if:
 - (A) Both lot owners join in the application for amending the plat;
 - (B) Neither lot is abolished;
 - (C) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
 - (D) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
- (8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- (9) Relocate one or more lot lines between one or more adjacent lots if:
 - (A) The owners of all those lots join in the application for amending the plat;
 - (B) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
 - (C) The amendment does not increase the number of lots;
- (10) To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (A) The changes do not affect applicable zoning and other regulations of the city;
 - (B) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and

- (C) The area covered by the changes is located in an area that the city council has approved, after a public hearing, as a residential improvement area.

(c) The city manager (or designee) may, at his or her discretion and for any reason, elect to present the amending plat to the planning and zoning commission and city council for consideration and approval. Any decision made on the amending plat by the city manager (or designee) shall be approval of the plat. Should the city manager (or designee) refuse to approve the amending plat, then the plat shall be referred to the commission for review, and the city council for approval, within the time period required by state law.

(d) Notice, a public hearing and the approval of other lot owners are not required for the approval and issuance of an amending plat.

(e) The amended plat shall be entitled and clearly state that it is an “amended plat,” and it shall include a detailed “Purpose for Amended Plat” statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the city and filed at the county. It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to “final plat” or “replat” shall be removed.

(f) Other than noted above, the procedure for approval of plat amendment(s) shall be the same as in section 28.02.007.

(g) The amending plat shall be filed at the county in the same manner as prescribed for a final plat, and approval of an amending plat shall expire if all filing materials are not submitted to the city secretary, and if the plat is not filed at the county within the time periods specified for a final plat.

(2006 Code, sec. 70-38; Ordinance 02-09-549, sec. 2.9, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.02.009 Plat vacation

(a) By property owner. The property owner of the tract covered by a plat may vacate, upon review by the commission and approval by the city council, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat (instrument language is available from the city, upon request).

(b) By all lot owners. If some or all of the lots covered by the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

(c) Criteria. The planning and zoning commission shall review, and the city council may approve, the petition for vacation on such terms and conditions as are in accordance with V.T.C.A., Local Government Code sec. 212.013, and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the city council may direct the petitioners to prepare and seek approval of a revised final plat in accordance with this chapter such that the property does not become “unplatted.”

(d) Effect of action. On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the commission’s and city council’s action on the petition, the property owner will have no right to a refund of any monies, fees or charges paid to the city nor to the return of any property or consideration dedicated or delivered to the city except as may have previously been agreed to by the commission and city council.

(e) City-initiated plat vacation.

- (1) General conditions. The city council, on its motion and following a public hearing on the matter, may vacate the plat of an approved subdivision or addition when:
 - (A) No lots within the approved plat have been sold within five years following the date that the plat was signed by the city;
 - (B) The property owner has breached an improvement agreement and the city is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or its successors; or
 - (C) The plat has been of record for more than five years and the city determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety or welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.
- (2) Procedure. Upon any motion of the planning and zoning commission or city council to vacate the plat of any previously approved subdivision or addition, in whole or in part, the city shall publish notice in a newspaper of general circulation in the county before the 15th day prior to the date of the public hearing at which the plat vacation shall be heard by the commission. The city shall also provide written notice to all property owners within the subdivision or addition and to all members of the city council. The notice shall state the time and place for a public hearing before the commission, and subsequently before the city council, on the motion to vacate the subdivision or addition plat. The commission shall recommend approval, and the city council shall approve, the plat vacation only if the criteria and conditions cited above are satisfied.
- (3) Record of plat vacation. If the city council approves vacating a plat, the city secretary shall cause a copy of the plat vacation instrument to be recorded in the office of the county clerk along with an exhibit showing a drawing of the area or plat vacated. The county clerk shall write legibly on the vacated plat the word “vacated” and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded. If the city council vacates only a portion of a plat, it shall cause a revised final plat drawing to also be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated. On the execution and recording of the vacating instrument the vacated plat (or the vacated portion of the plat) has no effect.

(2006 Code, sec. 70-39; Ordinance 02-09-549, sec. 2.10, adopted 9/3/02)

Sec. 28.02.010 Minor plats

- (a) A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the city’s current fee schedule as printed in appendix A to this code), and a certificate or some other acceptable form of verification from the county central appraisal district showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with section 28.01.010. A copy of all application materials for a minor plat shall be simultaneously submitted to the city planner for review in the same manner as for a final plat, or the application shall be deemed incomplete.
- (b) Upon receipt of a favorable recommendation for approval by the city planner, the city manager (or designee) may approve a minor plat, or may, for any reason, elect to present the minor plat to the planning and zoning commission and city council for consideration and approval. Any decision made on the minor plat by the city manager (or designee) shall be approval of the plat. Should the city manager (or designee) refuse to approve the minor plat, then the plat shall be referred to the planning and zoning commission for review, and city council for approval, within the time period required by state law.

- (c) Notice, a public hearing, and the approval of other lot owners are not required for the approval of a minor plat.
- (d) The minor plat shall be entitled and clearly state that it is a “minor plat.”
- (e) The minor plat shall be filed at the county in the same manner as prescribed for a final plat, and approval of a minor plat shall expire if all filing materials are not submitted to the city and if the plat is not filed at the county within the time periods specified for a final plat.

(2006 Code, sec. 70-40; Ordinance 02-09-549, sec. 2.11, adopted 9/3/02; Ordinance adopting 2015 Code)

ARTICLE 28.03 SUBDIVISION DESIGN STANDARDS

Sec. 28.03.001 Streets

(a) Generally. The arrangement, character, extent, width, grade and location of all streets shall conform to the city’s thoroughfare plan and TCSS, and shall be considered in their relation to existing and planned streets or driveways (whether within the city, within its extraterritorial jurisdiction 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. Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or accessible for improvements shall not be permitted in any subdivision unless such are required by the city in the public interest (such as to enhance public safety or other public interest). All streets shall be constructed in accordance with article 28.05 of this chapter and with the city’s TCSS.

(b) Street layout. Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation, shall be properly related to the thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. All streets shall be open and unobstructed at all times. The layout of the street network shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction, thereby helping to reduce stormwater runoff and preserve natural, scenic characteristics of the land.

(c) Adequacy of streets and thoroughfares.

- (1) Responsibility for adequacy of streets and thoroughfares. The property owner shall assure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the policies and standards in this subsection (c), and subject to the city’s cost participation policies on oversized facilities.
- (2) General adequacy policy. Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to the city’s thoroughfare plan, road classification system, comprehensive plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.
- (3) Road network. New subdivisions shall be supported by a road network having adequate capacity, ingress/egress, and safe and efficient traffic circulation. The adequacy of the road network for developments of 100 or more dwelling units, or for developments generating 1,000 or more “one-way” trips per day, or for developments involving collector or arterial streets not appearing on the city’s adopted thoroughfare plan, shall be demonstrated by preparation and submission, prior to or along with the construction plat application, of a traffic impact analysis prepared in accordance with subsection (f) of this section, which takes into consideration the need to accommodate traffic

generated by the development, land to be developed in common ownership and other developed property. In the event that the property to be developed is intended as a phase in a larger development project, or constitutes a portion of the land to be ultimately developed, the city council may require a demonstration of adequacy pursuant to this section for additional phases or portions of the property as a condition of approval for the proposed construction plat. In the event that the applicant submits a traffic impact analysis for an entire phased development project, the city may require an update of the study for each subsequent phase of the development which reflects any applicable changed conditions. If the construction plat is in conformance with the thoroughfare plan and if the construction plat is for a development of less than 100 dwelling units or for a development generating less than 1,000 “one-way” trips per day, then a traffic impact analysis is not required.

- (4) Approach roads and access. All subdivisions must have at least two points of vehicular access (primarily for emergency vehicles), 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.

(A) “Two points of vehicular access” shall be construed to mean that the subdivision has at least two improved roads accessing the subdivision from the city’s improved thoroughfare system, and the subdivision has at least two 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 100 feet to an intersecting internal street which provides at least two 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. Residential lots may not front onto any median divided street section, and residential driveways may not be located in front of a median. (Also see subsection (u) of this section.)

(B) 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 35 feet, whichever is greater, unless other provisions have been authorized through planned development approval. Each nonresidential lot shall have a minimum frontage on a dedicated public street as required by applicable zoning or 50 feet, whichever is greater, unless other provisions have been authorized through planned development approval.

- (5) Off-site improvements. Where traffic impact analysis demonstrates the need for such facilities, or where the city believes public safety is at risk, the property owner shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development or in conjunction with related developments. The city may participate in the costs of oversized improvements with the property owner as set out herein, and subject to the city’s cost participation policies on oversized improvements.

- (6) Street dedications.

(A) Dedication of right-of-way. The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the thoroughfare plan and as required by the TCSS or by other valid development plans approved by the city council. In the case of perimeter streets, half of the total required right-of-way width for such streets shall be provided unless the proposed development is on both sides of the street, in which case the full right-of-way width shall be provided, or unless there is some other compelling reason to require more

than half of the right-of-way width (such as avoiding the infringement upon or demolition of existing structures, avoiding crossing a creek or floodplain or some other obstacle, or other similar circumstance). In some instances, more than half of the required width shall be required when a half street is impractical or unsafe and depending upon the actual or proposed alignment of the street, such as in the case of a curved street, as may be required by the city council.

- (B) Perimeter streets. Where an existing half-street is adjacent to a new subdivision or addition, the other half of the street shall be dedicated, and an appropriate amount of the street shall be improved, by the developer of the new subdivision or addition.
- (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 horizontal run to one foot vertical height, or a three-to-one slope.
- (7) 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 chapter, and in accordance with the TCSS and other city standards as may be from time to time amended or adopted.
- (8) Intersection improvements and traffic-control devices. These devices shall be installed as warranted in accordance with the traffic impact analysis required by subsection (f) of this section, 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.
- (9) Phased development. Where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the construction plat, shall provide a schedule of development. The schedule shall set forth the intended plan of development and dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The city council shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or such phases as the city council determines to be necessary to adjudge whether the subdivision will be adequately served by streets and thoroughfares.
- (10) Private streets. New subdivisions may not be constructed with private streets, nor may an existing subdivision's public streets be converted to private ownership. Any private street subdivisions that were in existence (i.e., platted of record at the county) on the effective date of the ordinance from which this chapter is derived shall be allowed to remain as private street subdivisions provided that the conditions of the private streets and the maintenance thereof continues to meet or exceed city standards, and provided that a viable homeowners' association (HOA) continues to exist to maintain the private streets and all appurtenances. The city will not assist in enforcing deed restrictions. The city may periodically inspect private streets, and may require any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare.
 - (A) Private streets: Construction and maintenance cost. The city shall not pay for any portion of the cost of constructing or maintaining a private street.
 - (B) Private streets: Traffic-control devices. All private traffic-control devices and regulatory signs shall conform to the "Texas Manual of Uniform Traffic Control Devices," as amended, and to city standards.
 - (C) Private streets: Restricted access. The entrances to all private streets shall be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained nor regularly patrolled by the city. All restricted access entrances shall be manned 24 hours every day, or they shall provide a

reliable, alternative means of ensuring access into the subdivision by the city, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies, with appropriate identification. The method to be used to ensure city and emergency access into the subdivision shall be approved by the city's fire department and by any other applicable emergency service providers. If the association fails to maintain reliable access as required herein, the city may enter the private street subdivision and remove any gate or device which is a barrier to access at the sole expense of the association.

- (D) Private streets: Waiver of services. Certain city services may not be provided for private street subdivisions. Among the services which may not be provided are: routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided, as well.
 - (E) Private streets: Petition to convert to public streets. The property owners' association may petition the city to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members and upon the favorable vote of a majority of the membership. However, in no event shall the city be obligated to accept said streets as public. Should the city elect to accept the streets as public, then the city has the right to inspect the private streets and to assess the lot owners for the expense of needed repairs concurrent with the city's acceptance of the streets. The city shall be the sole judge of whether repairs are needed. The city may also require, at the association's or the lot owner's expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities located within the street lot or within any other common area.
 - (F) Private streets: Hold harmless. The property owners' association, as owner of the private streets and appurtenances, shall release, indemnify, defend and hold harmless the city, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross-arms, or out of any use of the subdivision by the city or governmental or utility entity.
- (d) Escrow policies and procedures.
- (1) Request for escrow. Whenever this chapter requires a property owner to construct a street or thoroughfare, or other type of public improvement, the property owner may, if there exist unusual circumstances, such as a timing issue due to pending roadway improvements by another agency such as the state department of transportation or the county, that would present undue hardships or that would impede public infrastructure coordination or timing, petition the city to construct the street or thoroughfare, usually at a later date, in exchange for deposit of escrow as established in this section. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, as demonstrated by a traffic impact analysis, the city manager (or designee) may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected roadways. The city council shall review the particular circumstances involved (a traffic impact analysis may be required to facilitate the city council's deliberations on the matter), and shall determine, at its sole discretion, whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street or thoroughfare with his or her development.
 - (2) Escrow deposit with city. Whenever the city council agrees to accept escrow deposits in lieu of construction by the owner of the property under this chapter, the property owner or developer shall deposit in escrow with the city an amount equal to his share of the costs of design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and an appropriate

(and realistic) inflation factor to ensure that the actual “future dollar” costs will be covered when actual construction occurs in the future. Such amount shall be reviewed and approved by the city manager (or designee) and by the city engineer, and shall be paid prior to release of engineering plans by the city engineer. The obligations and responsibilities of the property owner shall become those of the property owner’s transferees, successors and assigns; and the liability therefor shall be joint and several.

- (3) Determination of escrow amount. The amount of the escrow shall be determined by using the maximum comparable “turnkey” bid price of construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be needed). Such determination of the escrow amount shall be made as of the time the escrow is due hereunder, and shall be subject to the review and approval of the city manager (or designee) and the city engineer.
- (4) Termination of escrow. Escrows, or portions of escrowed amounts, which have been placed with the city under this section and which have been held for a period of ten years from the date of such payment or agreement, in the event that the city has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the property owner, along with one-half of its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.
- (5) Refund. If any street or highway for which escrow is deposited is constructed by a party other than the city, or is reconstructed by another governmental authority at no cost to the city, the escrowed funds and accrued interest shall be refunded to the property owner or applicant who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the city and the other portion of the cost by another party or governmental authority, the difference between the property owner’s actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.
- (6) Interest limitation. If money is refunded within six months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with one-half of its accrued interest.

(e) Traffic impact analysis. Any proposed development project or plat involving a significant change to a proposed roadway alignment from that shown on the city’s thoroughfare plan (or involving a development of 100 or more dwelling units, or for developments generating 1,000 or more “one-way” trips per day) shall be preceded by submission, city staff and planning and zoning commission review, and city council approval of a traffic impact analysis as specified in subsection (f) of this section. Such a proposed roadway alignment change shall also be preceded by (or simultaneous with) an amendment to the city’s thoroughfare plan showing the new proposed alignment. Failure to provide for such approvals prior to submission of a construction plat (or concurrently with the construction plat application) shall be grounds for denial of the plat application.

(f) Required components of traffic impact analysis. Whenever this chapter (or the city council, in unique instances which do not necessarily meet the above criteria but which may significantly affect the public health, safety or welfare, such as a proposed subdivision that will only be accessed via substandard roadways which may pose an impediment to emergency response vehicles) require submission and city council approval of a traffic impact analysis, the following elements shall be included:

- (1) General site description. The traffic impact analysis shall include a detailed description of the roadway network within one mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land

development shall be provided. This description, which may be in the form of a map, shall include the following items:

- (A) All major intersections;
 - (B) All proposed and existing ingress and egress locations;
 - (C) All existing roadway widths and rights-of-way;
 - (D) All existing traffic signals and traffic-control devices; and
 - (E) All existing and proposed public transportation services and facilities within a one-mile radius of the site.
- (2) Proposed capital improvements. The traffic impact analysis shall identify any changes to the roadway network within one mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width or alignment of roadways affected by the proposed development.
- (3) Roadway impact analysis.
- (A) Transportation impacts.
 - (i) Trip generation. The average weekday trip generation rates (trip ends), the average weekend trip generation rates (for uses other than residential or institutional), the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates (for uses other than residential or institutional) for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers' Trip Generation book; or shall be based upon data generated by actual field surveys of area uses compatible to the proposed use and approved by the city manager (or designee) and the city engineer.
 - (ii) Trip distribution. The distribution of trips to arterial and collector roadways within the study area identified in subsection (f)(1) of this section (general site description) shall be in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing and projected daily traffic volumes; and existing traffic conditions identified pursuant to subsection (f)(1) of this section.
 - (B) Adequacy determination. The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at a level of service "C" or above.
- (4) Intersection analysis.
- (A) Level of service analysis. For intersections within the roadway traffic impact analysis area described in subsection (f)(1) of this section (general site description), a level of service analysis shall be performed for all arterial to arterial, arterial to collector, collector to arterial, and collector to collector intersections, and for any other pertinent intersections

identified by the city manager (or designee) or by the city engineer. Also, level of service analyses will be required on all proposed site driveway locations for all nonresidential developments. The city may waive analysis of minor intersections and site driveway locations within the one-mile radius. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand turns, percentage (and typical size) of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor.

- (B) Adequacy analysis. The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service “C” or above.
- (5) Effect of adequacy determination. If the adequacy determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the study area identified in subsection (f)(1) of this section that would cause the roadway to fall below the level of service required hereto, the proposed development shall be denied unless the developer agrees to one of the following conditions:
 - (A) The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;
 - (B) A reduction in the density or intensity of development;
 - (C) The dedication or construction of facilities needed to achieve the level of service required herein; or
 - (D) Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.
- (g) Arrangement of streets not shown on the thoroughfare plan. For streets that are not shown on the city’s thoroughfare plan, such as local residential streets, the arrangement of such streets within a subdivision shall:
 - (1) Provide for the continuation or appropriate projection of existing streets from or into surrounding areas;
 - (2) Conform to a plan for the neighborhood approved or adopted by the city council to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
 - (3) Provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use; and
 - (4) Not conflict in any way with 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).

(h) Residential collector streets and minor residential streets. Streets shall be laid out such that their use by through traffic will be discouraged, such as via circuitous routes or multiple turns or offsets, but such that access is provided to adjacent subdivisions.

- (1) Wherever the right-of-way width of a collector or residential street must transition to a greater or lesser width, such transition shall occur along the front, side or rear lot lines of adjacent lots (for a reasonable distance) and shall not occur within the street intersection itself. In other words, the right-of-way width shall be the same on both sides of the street intersection.
- (2) 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 20 percent of the total centerline length of a collector street may have residential lots fronting onto the collector on each side of the street. For example, a collector street having a total centerline length (from one terminus to another) of 1,000 feet may have lots fronting onto it with a total frontage distance of 200 feet on each side of the street. Calculations shall be submitted with the construction plat application (and provided to the city planner and city engineer) verifying that lots fronting onto a collector street do not exceed the provisions in this subsection.
- (3) At least 50 percent of the total centerline length of all streets (including collector streets) within a residential subdivision (or within each phase of a residential subdivision, unless otherwise approved by the city council to apply to the subdivision in its entirety rather than each individual phase) shall be curvilinear in design (per Plano's standards) except the minimum centerline radius for residential streets shall be 150 feet. Calculations shall be submitted with the construction plat application (and provided to the city planner and city engineer) verifying that the above curvilinear street requirement is being met.

(i) Subdivision containing arterial street. Where a subdivision abuts or contains an existing or proposed arterial street, the city council may require marginal access streets, reverse frontage (lots which back onto the arterial), deep lots with rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(j) Reserve strips. Reserve strips controlling access to streets shall be prohibited except where their control is required by the city and approved by the city council.

(k) Centerline offsets. Intersecting, undivided streets with centerline offsets of less than 150 feet shall be avoided. Intersecting streets onto an existing or future divided roadway must be configured such that the centerline offset will accommodate the appropriate median opening and left-turn lanes (with required transition and stacking distances) on each divided roadway, and shall be aligned with any existing or proposed streets or driveways on the opposite side of the divided roadway (in order to share the median opening).

(l) Street intersections. A street intersection with a major thoroughfare shall be at a 90-degree angle and shall be tangent to the intersecting street for at least 100 feet. All other street intersections shall be laid out so as to intersect as nearly as possible at a 90-degree angle or radial to the centerline of the intersecting street for the full right-of-way width of the intersecting street, and tangent to the intersecting street for at least 50 feet. No street shall intersect at an angle that is less than 85 degrees.

(m) Street right-of-way widths. Street right-of-way widths shall be as shown on the thoroughfare plan and as defined by the corresponding roadway cross-sections on the thoroughfare plan and in the city's TCSS manual.

(n) Half streets. Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of this chapter and the thoroughfare plan, and where the city council makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The city council may also find that it would be more practical, or cost effective, to delay construction of the other half of a street until when the adjoining property is developed. If the property owner is responsible for one-half of the street, then the property owner shall either construct the facility along with his development or shall

provide escrow for the construction cost of his share of the facility (including all applicable street appurtenances such as median openings, left-turn lanes into the development, sidewalks with barrier-free ramps, drainage structures and the like) unless the city participates in the construction of the facility. Whenever a partial street has been previously platted along a common property line, the other portion of the street right-of-way shall be dedicated such that the right-of-way is increased to the street's ultimate planned width. Improvements shall be made to all on-site facilities as defined herein (see definitions, section 28.01.013).

(o) Maximum length of blocks or street segment. The maximum length of any block or street segment (including a looped street) shall be 1,600 feet and the minimum length of any block or street segment shall be 400 feet, as measured along the street centerline and between the point of intersection with other through, but not dead-end or cul-de-sac, streets.

(p) Maximum length of cul-de-sac. A cul-de-sac street shall not be longer than 600 feet, and at the closed end shall have a turnaround bulb with an outside pavement diameter of at least 80 feet and a right-of-way diameter of at least 100 feet. 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.

(q) Waiver or suspension for overlength streets or cul-de-sacs. The commission may recommend, and the city council may approve, waivers/suspensions for overlength streets or cul-de-sacs, whether temporary or permanent, upon considering the following:

- (1) Alternative designs which would reduce street or cul-de-sac length;
- (2) The effect of overlength streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes; and
- (3) Means of mitigation, including but not limited to additional midblock street connections, limitation on the number of lots to be served along an overlength street segment or cul-de-sac, temporary (or permanent) points of emergency access, and additional fire protection measures.

(r) Dead-end streets. Except in unusual cases, no dead-end streets will be approved unless such dead-end streets are provided to connect with future streets on adjacent land. In the case of dead-end streets which will eventually be extended into the adjacent subdivision, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb (with the appropriate temporary street easement) is provided at the end. A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed like a cul-de-sac, as provided in subsection (p) of this section (the city engineer may authorize the use of asphalt or durable paving material other than concrete for the arc, or "wing," portions of the temporary turnaround bulb in order to minimize the cost of removing those portions later on). A note shall be placed on the final plat clearly labeling any temporary dead-end streets (if any) that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage and lettering must be large enough to be legible by a person with normal vision at a 20-foot distance. Any required temporary turnaround easements shall be shown on the final plat along with their appropriate recording information, if they are off-site or established by separate instrument.

(s) Names of new streets. New streets which extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets for an appropriate transition length, if applicable.

(t) Construction of streets. All streets shall be constructed in accordance with paving widths and specifications as set forth in the TCSS of the city at the time at which the construction plat application is officially submitted and deemed a complete application.

(u) Points of access. All subdivisions shall have at least two points of access from improved public roadways (also see subsection (c)(4) of this section). All residential developments shall provide no less than one entrance for every 50 lots, or portion thereof, including temporary dead-end stubbed streets that will eventually provide

connections into adjacent future developments and thence to an arterial or collector street. Driveway access onto roadways shall be provided and designed in accordance with the city's TCSS and construction standards that are in effect at the time the construction plat application is officially submitted and deemed a complete application. Residential driveway cuts shall not be allowed on roadways that are larger than a residential collector street (60-foot right-of-way) unless specifically approved by the city council with the construction plat application.

(2006 Code, sec. 70-71; Ordinance 02-09-549, sec. 3.1, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.03.002 Alleys

(a) Minimum right-of-way and pavement width. Service alleys in nonresidential districts, if provided or constructed by the developer, shall be a minimum right-of-way width of 30 feet and a pavement width of 24 feet.

(b) Standards. In the interest of reducing stormwater runoff and resultant erosion, sedimentation and conveyance of nonpoint source pollutants, residential alleys shall be prohibited in single-family subdivisions within the city and its extraterritorial jurisdiction, and shall only be permitted or required in instances where a subdivision must connect into existing alleys for the purpose of providing continuity or convenience. If alleys are permitted or required, the following standards shall be met: In residential districts, alleys shall be parallel, or approximately parallel, to the frontage of the street. Alleys in residential districts shall provide a minimum of 15 feet of right-of-way and ten feet of pavement.

(c) General design standards for alleys (if provided).

- (1) Alleys shall be paved in accordance with the city TCSS and construction standards that are in effect at the time the construction plat application is officially submitted and deemed a complete application.
- (2) Where the deflection of alley alignment occurs, the design of the paving and property line shall be as established by the TCSS.
- (3) Dead-end or "hammerhead" alleys shall not be allowed. Alleys must have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead-end alley situation is unavoidable, a temporary turnaround bulb or turnout onto a street, either of which will need a temporary easement for street or alley purposes, shall be provided as determined by the city engineer.
- (4) Alleys may not exceed a maximum length of 1,600 feet, as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets (at the right-of-way line of the street at the alley entrance). The commission may recommend, and the city council may approve, waivers/suspensions for overlength alleys upon consideration of the following:
 - (A) Alternative designs which would reduce alley length;
 - (B) The effect of overlength alleys upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in accessing rear driveways and in driving around to the front of their homes; and
 - (C) Means of mitigation, including but not limited to additional mid-block alley turnouts, limitation on the number of lots to be served along a single alley segment, temporary points of access, and additional fire protection measures.
- (5) Alley intersections shall be perpendicular and at a 90-degree angle or radial to the intersecting alley centerline for the full alley right-of-way width, and intersection pavement shall be of sufficient width and inside radius to accommodate waste collection and emergency vehicles. Intersections

shall be three-way wherever possible, and four-way intersections shall be avoided. No alley intersection serving more than four directions shall be allowed.

(2006 Code, sec. 70-72; Ordinance 02-09-549, sec. 3.2, adopted 9/3/02)

Sec. 28.03.003 Easements

(a) The minimum width for city utility easements shall be 15 feet 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 (also see section 28.03.008). 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 shall be required adjacent to certain portions of creeks or drainageways to provide maintenance access and/or public access and visibility into public open space or recreation areas (see article 28.04 of this chapter). The number of lots that back or side onto creeks, drainageways, public parks and open spaces, and public school sites shall be severely limited, and possibly prohibited, such that 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 and any other applicable entity requiring the drainage or floodway easement.

(c) A lot's area 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. If the city disputes the buildable area of any lot, the applicant shall submit verification in writing that the buildable area is adequate for the type of housing product (or nonresidential building) proposed for that lot. Final approval of the allowed buildable area for any lot shall be by the city.

(d) Where alleys are not provided in a residential subdivision, a minimum ten-foot-wide 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) For new development, 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. Examples include, but are not limited to, the following: a water, sanitary sewer or drainage easement, which is dedicated to the city for a water or sanitary sewer line or for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the city and its fire suppression and emergency medical service providers for access purposes; an electrical, gas or telephone easement, which is dedicated to the specific utility provider that requires the easement; and so on.

(2006 Code, sec. 70-73; Ordinance 02-09-549, sec. 3.3, adopted 9/3/02; Ordinance 15-06-994, sec. 6, adopted 6/2/15)

Sec. 28.03.004 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); 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 block lengths shall not exceed 1,600 feet in length. Where no existing subdivision or topographical constraints control, the blocks shall not be less than 400 feet 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 issuance of a waiver/suspension by the city council with plat approval) to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

(2006 Code, sec. 70-74; Ordinance 02-09-549, sec. 3.4, adopted 9/3/02)

Sec. 28.03.005 Sidewalks

(a) Pedestrian concrete walkways (sidewalks) not less than four feet wide shall be required within a residential subdivision on both sides of residential and collector streets, and sidewalks not less than five feet wide shall be provided within all nonresidential developments and along all perimeter arterials, for both residential and nonresidential developments, as set forth in the city's TCSS. Root barriers may be required underneath, and along with the construction of, all public sidewalks per the city's TCSS, particularly in locations where trees are (or will be) in close proximity to the sidewalk. Barrier-free ramps shall be constructed at all street intersections and at any other locations deemed appropriate by the city due to anticipated pedestrian travel patterns. Sidewalks shall be constructed within the street right-of-way, one foot away from the right-of-way line, and at least five feet away from the street curb in a curvilinear manner within nonresidential zoning districts and along major arterials. In certain instances, the city council may, at its sole discretion, approve placement of the sidewalk adjacent or closer than five feet to the curb provided that such placement benefits the general public by allowing more space for landscaping, such as for street trees, screening shrubs, and decorative walls and fences, and provided that the width is increased to a minimum of five feet and a maximum of eight feet of sidewalk pavement or to such a width as may be needed to comply with the parks master plan along major arterials (i.e. North Murphy Road, South Murphy Road, State Highway 544 and Betsy Lane) in the interest of public safety.

(b) All sidewalks along a perimeter roadway or arterial are considered part of the overall development's required public improvements and shall be installed prior to acceptance of the subdivision by the city and prior to final plat approval, unless surety is provided, per article 28.06 of this chapter. In any event, a certificate of occupancy will not be issued for any lot within the subdivision until the required sidewalks are in place or appropriate surety is provided. The cost and provision of any perimeter sidewalks, such as along major thoroughfares, may be escrowed as a part of a developer's agreement, if approved by the city council. The city has the right, but not the obligation, to refuse escrow and to require paving of the sidewalks if, in its sole opinion, immediate provision of the sidewalks is necessary for safe pedestrian circulation or if it would otherwise protect the public health, safety, convenience or welfare.

(2006 Code, sec. 70-75; Ordinance 02-09-549, sec. 3.5, adopted 9/3/02; Ordinance 03-07-580 adopted 7/7/03)

Sec. 28.03.006 Lots

(a) Lots shall conform to the minimum requirements of the established zoning district, if located within the city's corporate limits.

(b) Each lot on a subdivision plat shall front onto a dedicated, improved public street unless platted as an approved private street subdivision in accordance with this chapter (see section 28.03.001(c)(10)). Lot width and access shall conform with the provisions of the city's zoning ordinance set out in chapter 30 (if within the city's

limits), comprehensive plan, and any other applicable city code or ordinance. In all cases, single-family residential lots shall have a minimum of 35 feet of frontage, and nonresidential lots shall have a minimum of 50 feet 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 of the appropriate zoning district (if within the city's limits), and shall provide a reasonable building pad without encroachment into front, side or rear yard setbacks or into any type of easement. Also, 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). In general, triangular, severely elongated or tapered "flag" or "panhandle" lots shall be avoided, and the city reserves the right to disapprove any lot which, in its sole opinion, will not be suitable or desirable for the purpose intended, which is an obvious attempt to circumvent the purpose and intent of lot configuration or lot width minimums, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties.

(d) Side lot lines shall be at 90-degree angles or radial to street right-of-way lines to the greatest extent possible. The city reserves the right to disapprove any lot which, in its sole opinion, is shaped or oriented in such a fashion as to be unsuitable or undesirable for the purpose intended, or which is not attractively or appropriately oriented toward its street frontage.

(e) Double frontage lots shall be avoided, except where they may be essential to provide separation of residential development from traffic arterials, as defined in section 28.03.001, 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, and rear yard screening shall be provided in accordance with section 28.05.007. Residential lots 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 perimeter boundaries along streets.

(2006 Code, sec. 70-76; Ordinance 02-09-549, sec. 3.6, adopted 9/3/02)

Sec. 28.03.007 Building lines

Front and street side building lines shall be shown on a concept plan and on any type of plat for all lots, and shall be consistent with the zoning ordinance requirements set out in chapter 30 for the district in which the development is located (if subject to the city's zoning regulations) and with any other applicable city ordinance, respectively. For property that is not subject to the city's zoning regulations, such as property that lies within the city's extraterritorial jurisdiction, the minimum front building line (for a residential or nonresidential lot) shall be 40 feet. (2006 Code, sec. 70-77; Ordinance 02-09-549, sec. 3.7, adopted 9/3/02)

Sec. 28.03.008 Utility services not provided by city

(a) Definitions. For purposes of this section, the following meanings shall apply:

Feeder or feeder/lateral line. High-voltage supply electric lines carrying more than 69,000 volts that emanate from substations used to distribute power through an area to an unspecified number of customers.

Lateral lines. Those electric or telephone lines used to distribute power from a feeder line to a single subdivision. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse.

Service lines. Those electric lines used to connect between the utilities' supply system or lateral lines and the end user's meter box.

Utility services. The facilities of any person, firm or corporation providing electric, natural gas, telephone, cable television, or any other such item or service for public use approved but not provided by the city.

(b) Easement requirements; verification of acceptance; letters of commitment. All subdivision plats and engineering plans submitted to the city for approval shall provide for utility services such as electrical, gas, telephone and cable television utility lines, including lateral or service distribution lines, and wires to be placed

underground. Feeder and other major transmission lines may remain overhead within the appropriate easements. However, an applicant shall endeavor and, whenever practical, the city shall require that feeder lines are placed away from major or minor thoroughfares or arterials, as shown on the thoroughfare plan. Whenever practical, feeder lines which are to be placed overhead shall not be placed along both sides of the street right-of-way. Verification of acceptance of easement locations and widths by the public utilities shall be provided to the city, by the applicant, prior to final plat approval by the city council, and all easements shall be reviewed by the utility companies and by the city engineer (for those to the city) prior to granting final approval for any residential subdivision affected by this section. The applicant shall also, prior to final plat approval, provide a letter of commitment from each utility provider, such as those providing electricity, gas, telephone and cable television, who will serve the development that said utility providers will ensure the provision of necessary infrastructure and service to all portions of the proposed development within 12 months following final plat approval. Failure to submit such letters of commitment from utility providers shall constitute grounds for denial of the final plat application on the basis that there is no written assurance that the development can be served by essential utility services.

(c) Administrative policies and criteria; cost reimbursement. Each of the utility companies shall be responsible for developing administrative policies, criteria for easement size, and cost reimbursement procedures for the installation and extension of their underground utilities. Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the property owner in accordance with the provisions of such utility's approved tariff. No utility company shall be required or permitted to begin construction of underground facilities unless and until the property owner or developer of the subdivision has made arrangements satisfactory to the specific utility company for the payment of such difference between the cost of overhead facilities and underground facilities.

(d) Utility installations. All electrical and telephone support equipment, including transformers, amplifiers and switching devices necessary for underground installations, shall be pad-mounted or ground-mounted, or shall be placed underground and not overhead, unless the subdivision is served from perimeter overhead electrical facilities. Pad-mounted or ground-mounted utility equipment shall be completely screened from view of any public roadway, and shall not be located within any required visibility area, such as at street intersections or corners or at driveway openings.

(e) Temporary construction service. Temporary construction service may be provided by overhead electric lines and facilities without obtaining a waiver/suspension or special exception, provided that when the underground utility service to any portion of a subdivision is completed, such overhead electric lines and facilities are promptly removed.

(f) Undergrounding of existing facilities. Nothing in this section shall be construed to require any existing facilities in place prior to the effective date of the ordinance from which this chapter is derived to be placed underground.

(g) Metering of utilities. The metering for utilities such as water, gas and electricity shall be located on the individual lots to be served, not grouped together in a centralized location, such as "gang-box" style metering stations, which shall not be permitted.

(h) Determination of easements. The locations, widths and configurations of easements for any utility service provider other than the city shall be determined, approved and acquired (if necessary) by the applicable utility service provider.

(i) Inspection. All utility installations shall be subject to inspection by the city, and shall be in conformance with any applicable city design standards related to their placement within public rights-of-way, within easements, or elsewhere in the city (including on private property).

(2006 Code, sec. 70-78; Ordinance 02-09-549, sec. 3.8, adopted 9/3/02)

Charter reference—Authority to require placement of wires, etc., underground, sec. 10.07.

Sec. 28.03.009 Water and wastewater facility design

(a) All new subdivisions shall be connected with the city's water system, and shall be capable of providing water for health and emergency purposes, including fire protection. An alternative source of water may be used for irrigation purposes only and for a nonresidential use only (e.g., a public park, a public school, and the like), subject to city approval and provided that all appropriate permits are procured from the city, the U.S. Army Corps of Engineers, the TCEQ, NTMWD, and any other applicable agency. Such alternative water source may not be used as a potable (i.e., drinking) water supply under any circumstances. The design and construction of water system improvements and alternative water sources shall comply with the following standards:

- (1) Design and construction of a water source on the site shall be in accordance with applicable regulations of the state commission on environmental quality (TCEQ).
- (2) Design and construction of water service from the city shall be in accordance with the standards in the city's TCSS manual, and in accordance with TCEQ and NTMWD standards, whichever is the most stringent requirement.
- (3) Design and construction of a fire protection and suppression system shall be in accordance with the standards in the TCSS manual, and in accordance with the city's fire department and fire code.

(b) All new subdivisions shall be served by the city's wastewater collection and treatment system. The design and construction of the wastewater system improvements shall be in accordance with the standards in the city's TCSS manual, and in accordance with TCEQ and NTMWD standards, whichever is the most stringent requirement.

(c) The subdivider shall be responsible for:

- (1) Phasing of development or improvements in order to maintain adequate water and wastewater services;
- (2) Extensions of utility lines (including any necessary on-site and off-site lines) to connect to existing utility services;
- (3) Providing and/or procuring all necessary easements for the utilities (whether on-site or off-site);
- (4) Providing proof to the city of adequate water and wastewater service;
- (5) Providing provisions for future expansion of the utilities if such will be needed to serve future developments, subject to the city's oversize participation policies, if applicable;
- (6) Providing all operations and maintenance of the utilities, or providing proof that a separate entity will be responsible for the operations and maintenance of the utilities;
- (7) Providing all fiscal security required for the construction of the utilities;
- (8) Obtaining approvals from the applicable utility providers if other than the city; and
- (9) Complying with all requirements of the utility providers, including the city.

(d) Extension of water and wastewater lines shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the city council may waive the requirement for adjacent utility line construction at the time of construction plat approval and prior to construction of the subdivision.

(e) Installation, operations and maintenance of utilities not specifically referenced herein shall comply with regulations of the TCEQ, the NTMWD, and with any other applicable state rules and regulations, whichever is the most stringent requirement.

(2006 Code, sec. 70-79; Ordinance 02-09-549, sec. 3.9, adopted 9/3/02)

Sec. 28.03.010 Stormwater collection and conveyance systems

(a) System design requirements. Drainage improvements shall accommodate runoff from the upstream drainage area in its anticipated maximum “build-out” condition, 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, or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development. No stormwater collection system shall be constructed unless it is designed in accordance with the city’s TCSS manual by a licensed professional engineer, and unless it is reviewed and approved by the city engineer. All plans submitted to the city engineer for approval shall include a layout of the drainage system together with supporting calculations for the design of the system.

(b) All erosion and sedimentation controls shall conform to the TCSS manual. For erosion and sedimentation control, the city uses the latest edition of “Stormwater Quality Best Management Practices for Construction Activities in North Central Texas” (by the NCTCOG), a copy of which is on file at the city.

(c) No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainageway without first obtaining written permission of the city engineer and any other applicable agency (such as FEMA or the U.S. Army Corps of Engineers) having jurisdiction. The city engineer may, at his or her discretion, require preparation and submission of a FEMA or flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer.

(d) In order to help reduce stormwater runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction.

(e) No cross-street flow (i.e., perpendicular to traffic flow) of stormwater runoff shall be permitted unless approved by the city engineer. When and if such drainage flow is allowed, it must be across a concrete street (i.e., valley gutter) and as approved by the city engineer.

(f) All stormwater retention or detention facilities which are not located underground shall be designed using materials and techniques as established in the city’s TCSS manual or as may be required by the city engineer.

(2006 Code, sec. 70-80; Ordinance 02-09-549, sec. 3.10, adopted 9/3/02)

ARTICLE 28.04 PUBLIC SITES AND OPEN SPACES

Sec. 28.04.001 Areas for public use

The applicant shall give consideration to suitable and adequate sites for schools, parks, playgrounds, and other areas for public use or service so as to conform with the recommendations contained in the city’s comprehensive plan; park and open space plan; and other applicable plans. Any provision for schools, parks or other public facilities shall be indicated on the construction and final plat, and shall be subject to approval by the city council.

(2006 Code, sec. 70-101; Ordinance 02-09-549, sec. 4.1, adopted 9/3/02)

Sec. 28.04.002 Protection of drainage and creek areas

(a) Protection generally. 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 aesthetics or public access or enjoyment of creeks and waterways.

(b) Definitions and methodology for determining the floodway management area (FMA). The definitions for "floodway" and "floodway fringe" shall correspond to those set forth by the Federal Emergency Management Agency (FEMA). For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of floodplain management. Under this concept, the area of the 100-year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100-year flood is termed the floodway fringe. The floodway fringe is the area which can be used for development by means of fill according to FEMA and city engineering criteria. For the purposes of this chapter, the floodway management area (FMA) will correspond to the floodway, as defined by FEMA, or as may be modified pursuant to a flood study that is approved by FEMA.

(c) Areas where a floodway management area is required. Maxwell Creek and its related tributaries and streams and all other drainage areas or regulated floodways as referenced on the applicable floodway and flood boundary map (flood insurance rate map, or FIRM) shall be included in the floodway management area. If FEMA does not specify a floodway zone in any of the creeks or their tributaries, it shall be the developer's responsibility to establish and identify the floodway management area. The determination shall be made by a licensed professional engineer and approved by the city engineer. Where improvements to a drainage area are required by other ordinances of the city for the purpose of safety or other reasons related to drainage, those ordinances shall also be observed. The floodway management area is intended to apply to a creek or channel which is to remain open or in its natural condition unless otherwise approved by a two-thirds majority vote of the full city council. The creek shall remain in its natural state unless improvements are permitted or required by the city due to the pending development of properties adjacent to or upstream of the required improvements.

(d) Ownership and maintenance of floodway management area. The area determined to be the floodway management area shall be designated on the construction plat. Approximate locations shall be shown on zoning change requests and concept plans - accurate locations of the floodway management area shall be established on the construction plat and prior to site construction. At the city's option, the floodway management area shall be protected by one of the following methods:

- (1) Dedicated to the city;
- (2) Easement. Creeks or drainageways on tracts which have private maintenance provisions, other than single-family or two-family platted lots, can be designated as the floodway management areas by an easement to the city on the construction plat (with the appropriate plat language, as required by the city). Subdivisions with platted single-family or two-family lots may designate the floodway management area by easement provided there are adequate maintenance provisions (such as by a mandatory homeowners' association), but no lots or portions of lots may be platted in the easement unless specifically allowed by the city. The area designated as floodway management area may be identified by a tract number; or
- (3) Certain recreational uses normally associated with or adjacent to floodprone areas (no structures allowed in the floodway management area), such as golf courses or certain types of parks. The uses allowed shall be in conformance with the zoning ordinance set out in chapter 30 and approved by

the planning and zoning commission and city council. Use of the floodway management area as public parkland shall also require approval by the city's park board.

Prior to acceptance of any drainageway as a floodway management area by the city, the area shall be cleared of all debris and brush (except for mature trees) and placed in a maintainable state. Floodway management areas dedicated to the city shall be left in a natural state except those areas designated for active recreational purposes and unless storm drainage requirements do not permit this to occur.

(e) Design criteria. The following design criteria shall be required for development adjacent to the floodway management area:

- (1) Adequate access shall be provided to and along the floodway management area for public and/or private maintenance. An unobstructed area a minimum of 20 feet wide with a maximum 5:1 slope (five feet horizontal to one foot vertical), the length of the floodway shall be provided adjacent to or within the floodway management area. On the opposite side of the drainage area, an unobstructed area having a minimum width of five feet shall be provided.
- (2) Lots in a single-family, PD single-family, or duplex residential zoning district shall not be platted within the floodway management area, and no more than ten percent of the linear length of the floodway management area (on each side) shall be allowed to have lots backing or siding onto it. If lots back or side onto a floodway management area, at least two reasonable points of access to the floodway management area, each a minimum of 20 feet in width, shall be provided. Streets, alleys and open-ended cul-de-sacs may qualify as access points if designed such that they are navigable by maintenance vehicles (e.g., alleys must be 20-foot width). All areas of the floodway management area shall be accessible from the access points and shall be visible from access points. Lots used for multifamily dwellings may be platted in the floodway management area if the floodway management area is identified as an easement and is maintained as open space for use by the residents, and provided that access to the floodway management area is possible by city maintenance vehicles, should that need arise. If the floodway management area is to be public parkland, then adequate public access and good public visibility shall also be provided to all portions of it.
- (3) Public streets may be approved in the floodway management area by the planning and zoning commission and city council (if they conform to applicable engineering standards).
- (4) Linear public streets may be required to be constructed adjacent to some (or all) portions of the floodway management area to allow access for maintenance or recreational opportunities, and/or to allow increased visibility into creek areas for public safety and security purposes.
- (5) Alternate designs to facilitate equal or better access may be permitted if approved by the planning and zoning commission and city council.

(f) Drainage areas which have been altered and are not in a natural condition can be exempted from a floodway management area and this section at the discretion of the city council and upon recommendation by the planning and zoning commission.

(2006 Code, sec. 70-102; Ordinance 02-09-549, sec. 4.2, adopted 9/3/02)

Sec. 28.04.003 Property owners' or homeowners' associations

(a) Applicability. When a subdivision contains either common open space or other improvements which are not intended to be dedicated to the city for public use, such as private streets, a private recreation facility, landscaped entry features or other private amenities, a property owners' or homeowners' association agreement consistent with state and other appropriate laws must be submitted to and approved by the city manager (or designee) and the city attorney. The conditions, covenants and restrictions (CCRs) and the association documents, such as the articles of incorporation and association bylaws, shall be submitted to the city for review

and approval along with the construction plat application, and shall be filed of record at the county prior to final plat approval in order to ensure that there is an entity in place for long-term maintenance of these improvements (also see section 28.03.001(c)(10)(E)). Said documents must, at a minimum, include provisions which allow the city to take over the maintenance of common property, including but not limited to private streets and private recreation facilities, using association funds, if such action becomes necessary due to nonperformance or inaction by the association or if the association goes defunct. Provisions shall also be included which would, in the latter instance, convey ownership of the private streets (if any) and all other common areas to the city, and which would allow the city to remove any improvements or amenities from the common areas and sell any buildable land area as residential lots, to recoup the city's expenses for maintenance or demolition of the improvements. Any monies that remain after the city has recovered all of its expenses shall be retained for future maintenance or upgrading of the streets, common areas (if any remain), screening walls, or other improvements within the subdivision. These provisions are not intended to allow the city to profit in any way from taking over the association's responsibilities or funds; they are only intended to allow the city to recoup its actual incurred expenses such that the general public, the taxpayers of the city, does not have to bear these costs.

(b) Membership. A property owners' or homeowners' association shall be an incorporated nonprofit organization operating under recorded land agreements through which:

- (1) Each lot owner within the described land area is automatically a mandatory member; and
- (2) Each lot is automatically subject to a charge for a proportionate share of the expenses for the property owners' or homeowners' association's activities, such as maintenance of common open spaces or private streets, or the provision and upkeep of common recreational facilities.

(c) Legal requirements. In order to assure the establishment of a proper property owners' or homeowners' association, including its financing, and the rights and responsibilities of the property or home owners in relation to the use, management and ownership of common property, the subdivision plat, dedication documents, covenants, and other recorded legal agreements must:

- (1) Legally create an automatic membership, nonprofit property owners' or homeowners' association;
- (2) Place title to the common property in the property owners' or homeowners' association, or give definite assurance that it automatically will be so placed within a reasonable, definite time;
- (3) Appropriately limit the uses of the common property;
- (4) Give each lot owner the right to the use and enjoyment of the common property;
- (5) Place responsibility for operation and maintenance of the common property in the property owners' or homeowners' association;
- (6) Place an association charge on each lot in a manner which will both assure sufficient association funds and which will provide adequate safeguards for the lot owners against undesirable high charges;
- (7) Give each lot owner voting rights in the association;
- (8) Identify land area within the association's jurisdiction including but not limited to the following:
 - (A) Property to be transferred to public agencies;
 - (B) The individual residential lots;
 - (C) The common properties to be transferred by the developer to the property owners' or homeowners' association; and

- (D) Other parcels; and
- (9) Any governmental authority or agency, including, but not limited to, the city and the county, their agents, and employees, shall have the right of immediate access to the common elements at all times if necessary for the preservation of public health, safety and welfare. Should the property owners' or homeowners' association fail to maintain the common elements to city specifications for an unreasonable time, not to exceed 90 days after written request to do so, then the city shall have the same right, power and authority to enforce the association's rules and to levy assessments necessary to maintain the common elements. The city may elect to exercise the rights and powers of the property owners' or homeowners' association or its board, or to take any action required and levy any assessment that the property owners' or homeowners' association might have taken, either in the name of the property owners' or homeowners' association or otherwise, to cover the cost of maintenance (or the possible demolition, if such becomes necessary to preserve public safety or to ease maintenance burden) of any common elements.
- (d) Protective covenants. Protective covenants shall be developed which, among other things, shall make the property owners' or homeowners' association responsible for:
- (1) The maintenance and operation of all common property;
 - (2) The enforcement of all other covenants;
 - (3) The administration of architectural controls (optional); and
 - (4) Certain specified exterior maintenance of exterior improvements of individual properties (optional).
- The city is not responsible (i.e., has no jurisdiction) for enforcing protective covenants or deed restrictions.
- (e) Dissolution of association. The association may not be dissolved without the prior written consent of the city council.
- (f) Amendment of maintenance and assessment documents. No portion of the association documents pertaining to the maintenance of private streets and alleys, and assessments therefor, may be amended without the written consent of the city council.

(2006 Code, sec. 70-103; Ordinance 02-09-549, sec. 4.3, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.04.004 Parkland and public facility dedication

- (a) Areas for public use.
- (1) The applicant shall give consideration to suitable sites for parks, playgrounds and other areas for public use so as to conform with the recommendations of the city's park and open space plan. Any provision for parks and public open space areas shall be indicated on the construction and final plat, and shall be subject to approval by the city's park board and by the city council.
 - (2) No individual, partnership, firm, or corporation shall deepen, widen, fill, reroute or change the course or location of any existing ditch, channel, stream or drainageway, without first obtaining written permission of the city and any other agency having jurisdiction.
- (b) Parkland dedication.
- (1) Any person, firm, or corporation offering a construction or final plat for development of any area zoned and to be used for single-family, duplex, or multifamily residential purposes within the city shall include on such construction or final plat the dedication (to the city) of land for public park purposes, calculated at the rate of not less than one acre of parkland per 100 ultimate units of such

residential subdivision, and the buildable area of public parks shall not be smaller than five acres in size, unless otherwise determined by the city's park board and approved by the city council to be in keeping with the city's adopted park and open space master plan. The location and size of public parks within the city shall be determined in all instances by the park board and approved by the city council. That determination shall be based upon existing circumstances at the time, and shall be in accordance with the park and open space plan adopted by the city.

- (2) The construction and final subdivision plat shall clearly show the area proposed to be dedicated as parkland under the provisions of this section. The planning and zoning commission shall determine the number of persons per unit based upon data compiled by the city, from time to time, in the update of its park and open space plan, which shall be reviewed and adjusted by the city council, as necessary, to reflect current figures. The applicant has the duty to submit with the subdivision plat for a multifamily residential development information concerning the numbers of units, and should he fail to do so, the commission shall make an assumption of the highest density that would be allowed in such multifamily residential district for the purposes of calculating parkland requirements.
 - (3) In instances where parkland is unacceptable, unavailable or unsuitable for park purposes, and only if determined by the park board and approved by the city council, money in lieu of land shall be paid into a "park dedication fund" to be established by the city. Such fee in lieu of parkland dedication shall be in accordance with the city's park dedication ordinance, Ordinance No. 99-01-448 [02-11-552], as amended.
 - (4) The park dedication fund will be administered by the city council to best benefit the development, provided that the establishment of a park site shall be within the discretion of the city council. The money paid by the applicant will be expended on such park site within ten years from the date of final plat approval. All sums deposited to the fund shall be accounted for by the city and expended for such purposes as land acquisition, construction of improvements, and purchase of equipment (at the city's discretion) for a public park site that is located within the park service area in which the subdivision depositing the funds is located. If such funds are not so expended within ten years following final plat approval, the property owner shall be entitled to a refund of such funds, upon written request, less any amounts expended for such purposes.
 - (5) The dedicated land required hereby shall be well-drained, relatively level in areas that are proposed for active park uses, and shall be suitable for appropriate recreational and leisure activities such as hiking, bicycling, picnicking and wildlife observance. All parkland offered for dedication under this section shall meet the requirements for location and for physical land characteristics outlined in the park and open space plan. Areas having environmentally sensitive ecosystems, attractive views, topographical interest or unique natural features shall be preferred and encouraged for parkland dedication. Areas which are relatively featureless, barren of natural trees and vegetative cover, and which are not physically attractive in some other way, may not be typically acceptable. Drainage areas may be accepted if the channel is to essentially remain in its natural state, and if any proposed pathways, landscaping, irrigation systems, and other improvements are constructed in accordance with city standards and in keeping with the "semi-rural" atmosphere of the area.
- (c) Public park access. Parkland shall be easily accessible for the public and open to public view so as to benefit area residents, enhance the visual character of the city, protect public safety, and minimize conflicts with adjacent land uses. A proposed subdivision adjacent to a public park or open space area shall not be designed to restrict reasonable access or visibility into the park (for example, shall not have many lots backing to the parkland). Street connections between residential neighborhoods shall be provided, wherever possible, to provide reasonable access to parks and open space areas. Proposed access and public availability, both physical and visual, of parkland shall be reviewed and approved by the city's park board and by the city council.
- (d) Other parkland dedication requirements. Unless otherwise provided herein, all requirements set forth in the city's parkland dedication ordinance (Ordinance No. 99-01-448 [02-11-552]), as may be amended, shall

apply. In the event that a provision of this chapter conflicts with a provision of Ordinance No. 99-01-448 [02-11-552], as amended, then the more stringent provision shall apply.

(2006 Code, sec. 70-104; Ordinance 02-09-549, sec. 4.4, adopted 9/3/02)

ARTICLE 28.05 IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF SUBDIVISION BY CITY

Sec. 28.05.001 Improvements generally

(a) The requirements of this chapter as set forth below are designed and intended to ensure that, for all subdivisions of land within the scope of this chapter, all improvements as required herein are installed properly, and:

- (1) The city can provide for the orderly and economical extension of public facilities and services;
- (2) All purchasers of property within the subdivision shall have a usable, buildable parcel of land; and
- (3) All required improvements are constructed in accordance with city standards.

(b) The land to be divided or developed must be served adequately by essential public facilities and services. No subdivision shall be approved unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site. This policy may be defined further and supplemented by other ordinances adopted by the city. Wherever the subject property adjoins undeveloped land, or wherever required by the city to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners when such adjacent property is platted and/or developed.

(c) Public improvements that are required by the city for the acceptance of the subdivision by the city shall include, but are not limited to, the following:

- (1) Water and wastewater facilities;
- (2) Stormwater drainage, collection and conveyance facilities;
- (3) Water quality, erosion and sedimentation controls;
- (4) Streets;
- (5) Streetlights;
- (6) Street signs;
- (7) Alleys (generally not allowed in single-family residential subdivisions);
- (8) Sidewalks, including barrier-free ramps at street intersections and other appropriate locations;
- (9) Screening and/or retaining walls;
- (10) Traffic-control devices required as part of the project; and
- (11) Appurtenances to the above, and any other public facilities required as part of the proposed subdivision.

(d) All aspects of the design and implementation of public improvements shall comply with the city's current design standards and any other applicable city codes and ordinances, including preparation and submittal of engineering plans and construction inspection. The construction of all of the improvements required in this chapter shall conform to the latest edition of the city's TCSS, as may be amended, and to any other applicable city standards.

(e) Changes or amendments to the TCSS and other construction or design documents. The technical construction standards and specifications (TCSS) will, from time to time, require revisions and updates to allow for changing construction technology. When changes are required, the TCSS may be amended by separate ordinance. It is the applicant's responsibility to be aware of, and to conform with, all TCSS requirements (including amendments) that are in place as of the time a complete development application for a construction plat (including required engineering/construction plans) is received by the city.

(2006 Code, sec. 70-131; Ordinance 02-09-549, sec. 5.1, adopted 9/3/02)

Sec. 28.05.002 Monuments

(a) In all subdivisions and additions, monuments shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than three-quarters inch in diameter and 24 inches deep, and set flush with the top of the ground. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half inch and 18 inches deep, and set flush with the top of the ground. In addition, curve point markers shall be established of the same specifications as lot corners. Each block corner monument shall include a cap with the surveyor's name and registration number attached to it. All block and lot corners shall be installed prior to the final acceptance of the subdivision by the city and prior to filing the plat at the county. All survey work around the boundary area, as well as within the subdivision, shall have an error of closure of one in 7,500 or less.

(b) A subdivision shall have at least two concrete monuments set by the surveyor, if not already existing, for two corners of the subdivision, and such concrete monuments shall be located at opposite ends (or at widely separated corners) of the subdivision and clearly shown on the final plat prior to filing at the county. The final plat shall also show clear ties to existing concrete monuments in the vicinity of the subdivision. The design and installation of concrete monuments shall be in accordance with the city's TCSS.

(2006 Code, sec. 70-132; Ordinance 02-09-549, sec. 5.2, adopted 9/3/02)

Sec. 28.05.003 Streetlights

All street lighting shall be in keeping with the "semi-rural" atmosphere of the city, and shall be in conformance with the city's TCSS, "dark sky" lighting ordinance (when and if enacted), and any other applicable city codes. Street lighting shall be of a design that casts light downward to the greatest extent possible, and shall minimize light overspill onto adjacent properties. (2006 Code, sec. 70-133; Ordinance 02-09-549, sec. 5.3, adopted 9/3/02)

Sec. 28.05.004 Street names and signs

(a) Street names must be submitted to the city for review and approval in accordance with the city's guidelines for the naming of streets. The city shall forward all proposed street names to others for review, including the U.S. Postal Service, NCTCOG, and any other applicable emergency service providers. Proposed street names shall be submitted for review along with (and as a part of) the construction plat application, and shall become fixed at the time of approval of the construction plat. On the final plat, street names shall not be changed from those that were approved on the construction plat unless special circumstances have caused the major realignment of streets or a proposed street name is discovered to have already been used elsewhere in the city (or some other similar eventuality). If additional street names are needed for the final plat, then they must be submitted for review and approval by the city, the U.S. Postal Service, and applicable emergency service providers, including 911 dispatch in Wylie, along with the final plat application. A fee may be established by the city for the changing of street names after approval of the construction plat.

(b) The names of corporations or businesses shall not be used as street names, unless approved by the city council. The city will maintain a list of existing street names (and “reserved” street names that have been approved on a construction plat), and will update the list as new streets are platted.

(c) New street names shall not duplicate existing street names either literally or in a subtle manner (for example, Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle; Cascade Drive vs. Cascading Drive); shall not be so similar as to cause confusion between names (for example, Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive); and shall not sound like existing street names when spoken (for example, Oak Drive vs. Doak Drive vs. Cloak Drive; Lantern Way vs. Land Tern Way).

(d) New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both sides of the thoroughfare, wherever practical, unless otherwise approved by the city council.

(e) The property owner shall provide payment for street name signs for the development (two signs for four-way intersections, and one sign for three-way intersections). The cost of each street name sign installation shall include the cost of the sign assembly, pole and all costs associated with installation. Payment by the property owner will be due prior to acceptance of the subdivision by the city.

(f) Street name signs shall be installed in accordance with the city’s guidelines before issuance of a building permit for any structure on the streets approved within the subdivision.

(2006 Code, sec. 70-134; Ordinance 02-09-549, sec. 5.4, adopted 9/3/02)

Sec. 28.05.005 Street and alley improvements

(a) All on-site, such as internal, streets and alleys shall be constructed by the developer at the developer’s expense, unless otherwise allowed by this chapter. If the subdivision is adjacent to a planned or future or substandard arterial or collector street, as shown on the city’s thoroughfare plan, and derives access, whether direct or indirect, from said roadway, then the developer shall be required to design and construct a reasonable portion of the roadway as well as any required median openings and left-turn lanes needed to serve his subdivision (see section 28.05.009). The city council may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction or improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

(b) All streets and alleys shall be constructed using reinforced concrete, unless otherwise approved by the city council, and per the specifications in the city’s TCSS.

(c) The minimum street and alley paving standards for which the construction shall be made by the developer are shown in the TCSS.

(d) In addition to the above-mentioned minimum standards, barrier-free ramps for physically challenged persons shall be constructed at all street corners, driveway approaches, appropriate mid-block crosswalks, and in locations where accessible parking spaces are provided. All barrier-free ramps and other accessibility considerations shall comply with section 228 of the Highway Safety Act, as currently amended, and with the Americans With Disabilities Act (ADA), as amended.

(e) All signs and barricades shall be in conformity with the TCSS, with ADA standards, and with specifications for uniform traffic-control devices, as adopted by the city, by the county, by the state department of transportation, and by the state department of public safety, as applicable.

(f) Approval is required prior to the installation of any driveway connecting to a public street. The city engineer shall approve all driveway cuts. The minimum distance, as measured from the edge or curb to the edge or curb of driveways, and not from the centerlines of the driveways, between driveway openings for multifamily and nonresidential developments shall be as set forth in the city’s TCSS manual, unless otherwise approved by

the city council. Driveways shall not be within the transition or stacking portion of a right-turn lane, and shall be no closer than 100 feet to an intersecting thoroughfare or arterial street, as measured from the intersecting street's end of curb radius, and no closer than 50 feet to an intersecting residential or collector street. Residential driveways shall not be allowed on a major roadway (over 60 feet in right-of-way width, or type "C" or above on the city's thoroughfare plan).

(2006 Code, sec. 70-135; Ordinance 02-09-549, sec. 5.5, adopted 9/3/02)

Sec. 28.05.006 Retaining wall requirements, construction regulations and design criteria

(a) Retaining wall requirements. In general, the use of retaining walls shall be minimized, wherever possible, through minimal and balanced cut and fill on property. When property within or directly adjacent to a subdivision contains changes in elevation exceeding 2-1/2 feet and the slope exceeds one unit vertical in two units horizontal, a retaining wall shall be required at the locations specified herein prior to the acceptance of the subdivision:

- (1) Location A. The grade change roughly follows a side or rear lot line.
- (2) Location B. The grade change is adjacent to a proposed building site boundary.
- (3) Location C. The grade change is adjacent to a watercourse or drainage easement.

(b) Retaining wall design and construction. All retaining wall design and construction shall be in compliance with the provisions of the building code and the TCSS of the city, and shall be approved by the city engineer.

(c) Retaining wall maintenance. Retaining walls shall be maintained by the owner of the property where such retaining wall is located.

(d) Regulations. Retaining walls shall not be constructed within any portion of a utility or drainage easement, unless approved by the city engineer.

(2006 Code, sec. 70-136; Ordinance 02-09-549, sec. 5.6, adopted 9/3/02)

Sec. 28.05.007 Screening and landscaping construction regulations, requirements and design criteria

(a) Screening.

- (1) Where subdivisions are platted so that the rear and/or side yards of single-family or two-family residential lots are adjacent to an arterial thoroughfare (greater than 60 feet) in right-of-way width on the thoroughfare plan; a four-lane collector street; are separated from a thoroughfare by an alley; or back up to a collector or residential street (which is not allowed unless specifically approved by the city council), the developer shall provide, at his sole expense, a minimum six-foot-tall masonry screening wall (also see subsection (7) below), or some other alternative form of screening, if approved by the city council, according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot, including columns and decorative features. All forms of screening shall conform to the requirements of city ordinances and policies that govern sight distance for traffic safety. Any required screening device that is wholly or partially destroyed or damaged shall be replaced or repaired with the same materials and shall be finished such that its appearance is restored to how it was before being destroyed or damaged.
- (2) Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the city's TCSS and other related city codes and policies. An alternative form of screening, in lieu of the six-foot to eight-foot tall masonry wall, may be approved by the city

council on a landscaping/screening wall plan submitted with the construction plat application. Such possible alternatives may include, but may not be limited to, the following:

- (A) Living/landscaped screen with decorative metal (e.g., wrought iron) fence sections with masonry columns;
- (B) A combination of berms and living/landscaped screening, either with or without a decorative metal or “WoodCrete” type of fence with masonry columns;
- (C) A combination of berms, decorative masonry retaining walls (no taller than six feet in height where facing or visible to a public street) and living/landscaped screening, either with or without a decorative metal or “WoodCrete” type of fence with masonry columns; or
- (D) Some other creative screening alternative may be approved if it meets the spirit and intent of this section, if it is demonstrated to be long-lasting and generally maintenance-free, and if the city council finds it to be in the public interest to approve the alternative screening device.

Any required screening device shall be, or shall achieve, at least six feet in height and at least 90 percent opacity within three years of initial installation/planting. Any landscaping used to achieve the purpose of required screening shall be equipped with an underground irrigation system with appropriate double check valve, automatic controller, and automatic moisture and freeze sensors. Trees used for overstory screening shall be on a separate bubbler irrigation system that can be programmed to provide deep-watering of trees at intervals that may differ from the rest of the irrigation system. The use of wood or other privacy fences immediately behind or abutting an alternative screening device that utilizes living screening elements (i.e., landscaping), berms, retaining walls and/or open (i.e., non-opaque) fence sections shall not be permitted due to the creation of a “no man’s land” and subsequent maintenance nuisance in the area between the two devices/fences, and due to the detrimental visual appearance of this type of arrangement. The use of any alternative form of screening in lieu of the masonry wall, particularly a device utilizing landscaping, shall require formation of a property/homeowners’ association in accordance with section 28.04.003.

- (3) A wall/screening maintenance easement at least five feet in width shall be dedicated to the city or to a property owners’ association on the private lot side and adjacent to the entire length of the screening wall or device.
- (4) The screening wall/device shall be installed prior to approval of the final plat and prior to final acceptance of the subdivision (or appropriate surety provided, per article 28.06 of this chapter). Landscape materials may be installed after the subdivision is accepted, upon approval of the city manager (or designee), but in no case later than six months following acceptance of the subdivision. Failure to properly install all components of a required screening wall or device within the allowed time frame, and without the appropriate developer’s agreement and surety, shall constitute a violation of this chapter and the developer may be subject to a penalty pursuant to section 28.08.001.
- (5) All plants, such as trees, shrubs and ground covers, shall be living and in sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is customary for their container or ball size, as per the latest edition of the “American Standard for Nursery Stock,” by the American Association of Nurserymen, as may be amended.
- (6) All masonry, wrought iron, steel or aluminum screening wall or fence plans and details must be designed and sealed by a licensed professional engineer, and must be approved by the city engineer. Masonry walls shall be in accordance with the city’s design standards, and the use of “ThinWall” type of construction (i.e., that does not conform with the TCSS) shall be prohibited due to problems with inferior strength and the higher cost of long-term maintenance. Decorative metal

fencing shall be solid stock, not tubular, and shall have masonry columns at a minimum spacing of 40 feet on center unless otherwise approved by the city engineer and city council.

- (7) The height of required screening devices, including spans between columns, shall be a minimum of six feet and shall be no more than eight feet tall. Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum eight-foot height by up to two feet for a total maximum height of ten feet for these features, provided that such taller elements comprise no more than ten percent of the total wall length in elevation view. Features that are taller than ten feet in height shall require city council approval on the landscaping/screening plans submitted with the construction plat.
- (8) Screening fences, walls and devices shall not be constructed within any portion of a utility or drainage easement unless specifically authorized by the city and by any other applicable utility provider.

(b) Entryway features (neighborhood identification).

- (1) Subdivisions in excess of ten platted lots may provide a low-maintenance landscaped entryway feature at access points from streets and thoroughfares into the subdivision. The entryway feature shall be placed on private property and within an easement identified for such use (limited portions of the feature or landscaping may be placed within the right-of-way, but only with city council approval on the landscaping/screening plans), and shall observe all sight visibility requirements. Most of the feature or landscaping shall be located on private property so that long-term maintenance responsibility will be borne by the property owner or an approved homeowners' association (see section 28.04.003). Entryway features that are located mostly or entirely within city right-of-way shall only be allowed with city council approval. Prior to city council approval, the city may require the applicant to execute an agreement with the city that relieves the city of maintenance responsibility and that indemnifies and holds the city harmless for damage or injury incurred by or in conjunction with such features in the right-of-way.
- (2) Design requirements. The entryway feature shall include low-maintenance, living landscaped materials as approved by the city council. The design of the entryway feature shall also include an automatic underground irrigation system that is equipped with moisture and freeze sensors, and may also include subdivision identification, such as signage located on the wall. All plants shall be living and in a sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is customary for their container or ball size, as per the latest edition of the "American Standard for Nursery Stock," by the American Association of Nurserymen, as may be amended. Any walls or structures used in the entryway feature must conform to the city's regulations pertaining to maximum height within the front yard of residential lots (see the zoning ordinance set out in chapter 30) wherever the adjacent lot sides onto the arterial street and the wall will be located within the front yard setback area.
- (3) The design of the entryway shall be in accordance with design policies in the city's TCSS. The design of the entry shall be reflected on the landscape, screening and irrigation plans submitted along with the engineering plans and the construction plat, and shall be approved by the city council.
- (4) The maintenance of the entryway shall be the responsibility of the applicant for a period of at least two years or until building permits have been issued for 80 percent of the lots in the subdivision, whichever date is later. Following that period of time, maintenance responsibility shall be borne by the private property owner upon whose lot the entryway feature is located, or by an approved homeowners' association (see section 28.04.003). If, at some point in time, the maintenance responsibility shifts to the city, the city shall have the right to upgrade, reduce or eliminate entirely, at its sole option, the landscaping and other amenities in order to simplify or minimize the amount of time, effort and cost that maintenance of the entryway will require.

(c) Landscaping. All landscaping shall be in conformance with the city's zoning ordinance as set out in chapter 30, as amended.

(d) Signage. All signage shall be in conformance with the city's sign ordinance as set out in chapter 26, as amended.

(2006 Code, sec. 70-137; Ordinance 02-09-549, sec. 5.7, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.05.008 Water and wastewater requirements

(a) The installation of all water and wastewater lines shall be in conformance with section 28.03.009.

(b) No final plat shall be approved for any subdivision within the city or its extraterritorial jurisdiction until the applicant has made adequate provision for a water system and a sanitary sewer system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided. The design and construction of the water system and of the sanitary sewer system to serve the subdivision shall be in conformance with the city's master plans for water and wastewater facilities and with the TCSS, and shall be approved by the city engineer (also see section 28.03.009).

(c) Water system with mains of sufficient size and having a sufficient number of outlets to furnish adequate and safe domestic water supply and to furnish fire protection to all lots shall be provided. Water lines shall extend to the property line in order to allow future connections into adjacent undeveloped property, and a box for the water meter(s) for each lot shall be installed either in the right-of-way or immediately adjacent to the right-of-way in a water meter easement.

(d) Services for utilities shall be made available to the property line of each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structures when connections are made.

(e) Fire protection shall be provided in accordance with section 28.03.009, with the city's TCSS manual, and with any other city policy or ordinance pertaining to fire protection or suppression. The fire chief shall have the authority to approve the locations and placement of all fire hydrants and fire lanes and he may, at his discretion, modify fire hydrant spacing or fire lane placement based upon special design or distance circumstances. All required fire lanes shall be shown as "fire lane easements" on the construction and final plats, along with the applicable fire lane language block. Vertical construction (i.e., any building construction above foundation/slab level) shall not commence until all required fire lanes are properly installed and accepted by the city, nor until all fire hydrants have been installed, inspected, tested and accepted by the city.

(2006 Code, sec. 70-138; Ordinance 02-09-549, sec. 5.8, adopted 9/3/02)

Sec. 28.05.009 Improvement of adjacent (perimeter) streets and utilities

(a) When a proposed subdivision, whether residential or nonresidential, abuts on one or both sides of an existing substandard street, or on a planned or future road as shown on the thoroughfare plan, being substandard according to the then-existing current thoroughfare plan, the developer shall be required to improve his or her reasonable share of the existing on-site facility as that term is defined herein, including appurtenant sidewalks, barrier-free ramps, storm drainage structures, screening and landscaping, median openings and/or left-turn lanes (if a divided thoroughfare), water quality or erosion controls, and other utilities as defined in section 28.01.013, to bring the same to city standards, or to replace it with a standard city street as determined by the traffic impact analysis, if required, at no cost to the city.

(b) The developer's share of improvements to a substandard perimeter road shall be 18.5 feet of pavement (including curb, if any), which is approximately equivalent to half of a collector street width (i.e., two through traffic lanes), along the entire front footage of the subdivision, unless the traffic impact analysis, if required, indicates that some other pavement width is needed to achieve and maintain an acceptable level of service on the roadway. If the subdivision is to be located on both sides of the roadway, 18.5 feet of pavement shall be constructed by the developer on each side of the road along the entire front footage of the subdivision on each

respective side of the road, unless the traffic impact analysis determines otherwise. Design and construction of the roadway shall be in accordance with the city's thoroughfare plan (with respect to right-of-way width and general location), the TCSS manual, and with any other applicable city codes and ordinances. Depending upon the specific roadway in question, and upon the traffic impact analysis results, any oversizing above the 18.5-foot width shall be borne by the city, the county, the state or by some other entity. The city council may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction and improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

(c) The developer's share for major bridges and similar region-serving drainage structures and for railroad crossings (including the appurtenant roadway paving, sidewalks/pedestrian pathways, abutments, safety railings and cross-arms, median areas, and the like) shall be in accordance with the city's or the City of Plano's policies for the construction of such facilities, whichever is the most stringent.

(d) Streets which dead-end at power lines or similar rights-of-way or easements, and which are intended for future extension across these rights-of-way or easements, shall be constructed in the right-of-way or easement for half the distance across the right-of-way or easement, and shall be further restricted as set forth in section 28.03.001. As with any other dead-end street, a note shall be placed on the final plat clearly labeling the dead-end streets that will, at some point, be extended across the power line easement (or right-of-way), and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage size and lettering shall be large enough to be legible by a person with normal vision at a distance of 20 feet.

(2006 Code, sec. 70-139; Ordinance 02-09-549, sec. 5.9, adopted 9/3/02)

Sec. 28.05.010 Storm drainage and water quality controls

(a) An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of stormwater and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions or inadvertent stormwater 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) The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and drainage facilities shall conform to section 28.03.010. In no case shall drainage areas be diverted artificially to adjacent properties or across roadways. Stormwater drainage from one lot onto another shall not be allowed unless such does not pose any harm or inconvenience to the downstream property owner, unless specifically approved by the city engineer, and unless the necessary off-site drainage easement is procured on the affected property.

(c) The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant buildup of sediment or debris from drainage improvements, with the exception of back-lot and side-lot drainage swales, at the 11th month of the second year for the required two-year maintenance bond for the applicable facilities. The city shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.

(2006 Code, sec. 70-140; Ordinance 02-09-549, sec. 5.10, adopted 9/3/02)

ARTICLE 28.06 REQUIREMENTS FOR ACCEPTANCE OF SUBDIVISIONS BY CITY

Sec. 28.06.001 Withholding city services and improvements until acceptance

The city hereby defines its policy to be that the city will withhold all city services and improvements of whatsoever nature, including the maintenance of streets and the furnishing of all other city services from any subdivision or property until all of the street, utility, storm drainage and other public improvements, as well as

lot improvements such as retaining walls and grading and installation of improvements required for proper lot drainage and prevention of soil erosion on the individual residential lots, are properly constructed according to the approved engineering plans and to city standards, and until such public improvements are dedicated to and accepted by the city. (2006 Code, sec. 70-161; Ordinance 02-09-549, sec. 6.1, adopted 9/3/02)

Sec. 28.06.002 Guarantee of public improvements

(a) Property owner's guarantee. Before approving the final plat of a subdivision located all or partially within the city or its extraterritorial jurisdiction, the city council must be satisfied that all required public improvements have been (or soon will be) constructed in accordance with the approved engineering plans and with the requirements of this chapter.

(b) Improvement agreement and guarantee. The city council may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the final plat, and may permit the property owner to enter into an improvement agreement by which the property owner covenants to complete all required public improvements no later than two years following the date upon which the final plat is approved. The city council may also require the property owner to complete or dedicate some of the required public improvements prior to approval of the final plat, and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and the city.

(c) Improvement agreement required for oversize reimbursement. The city shall require an improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the city for oversize costs. The city council, as it deems appropriate, has the authority to authorize the approval of such agreement as meeting the requirements of the city, and the city shall not withhold approval as a means of avoiding compensation due under the terms of this chapter. The city manager (or designee) is authorized to sign an improvement agreement on behalf of the city.

(d) Security. Whenever the city permits an applicant to enter into an improvement agreement, it shall require the applicant to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the city, a performance bond or letter of credit or other security acceptable to the city council and the city attorney, as security for the promises contained in the improvement agreement. Security shall be in an amount equal to 100 percent of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit shall be subject to the approval of the city manager and the city attorney.

(e) Performance bond. If the city council authorizes the applicant to post a performance bond as security for its promises contained in the improvement agreement, the performance bond shall comply with the following requirements:

- (1) All performance bonds must be in the forms acceptable to the city manager and the city attorney;
- (2) All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury;
- (3) All performance bonds must be signed by an agent, and must be accompanied by a certified copy of the authority for him to act;
- (4) All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the state to issue performance bonds for the limits and coverage required.

If the surety on any performance bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the state, or the surety ceases to meet the requirements listed in Circular

570, the developer shall, within 20 calendar days thereafter, substitute another performance bond and surety, both of which must be acceptable to the city.

(f) Letter of credit. If the city council authorizes the applicant to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:

- (1) Be irrevocable;
- (2) Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two years; and
- (3) Require only that the city present the issuer with a sight draft and a certificate signed by an authorized representative of the city certifying to the city's right to draw funds under the letter of credit.

(g) Reduction of original security upon completion of improvements. As portions of the public improvements are completed in accordance with the TCSS and the approved engineering plans, the applicant may make written application to the city manager to reduce the amount of the original security. If the city manager is satisfied that such portion of the improvements has been completed in accordance with city standards, he may, but is not required to, cause the amount of the security to be reduced by such amount that he deems appropriate, so that the remaining amount of the security adequately ensures the completion of the remaining public improvements.

(h) Reduction of security upon acceptance of improvements by city. Upon acceptance by the city of all required public improvements, the city shall authorize a reduction in the security to ten percent of the original amount of the security if the applicant is not in breach of the improvement agreement. The remaining security shall be security for the applicant's covenant to maintain the required public improvements and to warrant that the improvements are free from defects for two years thereafter. If the required security for maintenance and warranty is otherwise provided by the contractors or by others, the city will release the entire amount of the developer's security.

(2006 Code, sec. 70-162; Ordinance 02-09-549, sec. 6.2, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.06.003 Temporary improvements

(a) The applicant shall build and pay for all costs of temporary improvements required by the city, and shall maintain those temporary improvements for the period specified by the city. Prior to construction of any temporary facility or improvement, the applicant shall file with the city a separate improvement agreement and escrow or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained and removed.

(b) Any temporary public improvement (e.g., a temporary cul-de-sac, alley turnout, drainage swale, erosion control device, and the like) shall be placed within an easement established specifically for that purpose. The recording information of the instrument establishing the temporary easement shall be clearly shown on the final plat for the subdivision prior to approval of the final plat. A temporary easement for a required public improvement shall not be abandoned without the city engineer's approval and without written consent by the city.

(2006 Code, sec. 70-163; Ordinance 02-09-549, sec. 6.3, adopted 9/3/02)

Sec. 28.06.004 Government units

Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agents authorized to act in their behalf, agreeing to comply with the provisions of this chapter. (2006 Code, sec. 70-164; Ordinance 02-09-549, sec. 6.4, adopted 9/3/02)

Sec. 28.06.005 Failure to complete improvements

For plats for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the city, the plat approvals shall be deemed to have expired. In those cases where an improvement agreement has been executed and security has been posted, and the required public improvements have not been installed within the terms of the agreement, the city may:

- (1) 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;
- (2) Suspend final plat approval until the public improvements are completed, and may record a document to that effect for the purpose of public notice;
- (3) Obtain funds under the security and complete the public improvements itself or through a third party;
- (4) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the property; or
- (5) Exercise any other rights or remedies available under the law.

(2006 Code, sec. 70-165; Ordinance 02-09-549, sec. 6.5, adopted 9/3/02)

Sec. 28.06.006 Acceptance of dedication offers

Acceptance of formal offers for the dedication of streets, public areas, easements or parks shall be by authorization of the city manager (or designee). The approval by the city council of a construction or final plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the city of any street, public area, easement or park shown on the plat. The city may require the plat to be endorsed with appropriate notes to this effect. (2006 Code, sec. 70-166; Ordinance 02-09-549, sec. 6.6, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.06.007 Maintenance and guarantee of public improvements

The property owner shall maintain all required public improvements for a period of two years following acceptance of the subdivision by the city, and shall also provide a two-year maintenance bond (warranty) that all public improvements will be free from defects for a period of two years following such acceptance by the city. (2006 Code, sec. 70-167; Ordinance 02-09-549, sec. 6.7, adopted 9/3/02)

Sec. 28.06.008 Construction procedures

(a) Permit. A site development permit is required from the city prior to beginning any site development related work in the city or its extraterritorial jurisdiction which affects erosion control, storm drainage, vegetation or tree removal, or a floodplain.

(b) Pre-construction conference. The city shall require that all contractors participating in the construction meet for a pre-construction conference to discuss the project prior to release of a grading permit and before any filling, excavation, clearing or removal of vegetation and any trees that are larger than six-inch caliper. All contractors shall be familiar with, and shall conform with, applicable provisions of the city's landscape ordinance and tree protection/preservation ordinance (as set out in chapter 26).

(c) Conditions prior to authorization. Prior to authorizing release of a site development permit, the city engineer shall be satisfied that the following conditions have been met:

- (1) The construction plat has been approved by the city council (and any conditions of such approval have been satisfied);
- (2) All required engineering documents are completed and approved by the city's public works director;
- (3) All necessary off-site easements and dedications required for city-maintained facilities and not shown on the plat must be conveyed solely to the city, such as by filing of a separate instrument, with the proper signatures affixed. The original of the documents and the appropriate fees for filing the documents at the county (per county requirements and the city's submission guidelines, as may be amended from time to time) shall be returned to the city secretary prior to approval and release of the engineering plans by the city's public works director;
- (4) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the city's public works director, and at least one set of these plans shall remain on the job site at all times;
- (5) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the city; and
- (6) All applicable fees must be paid to the city.

(d) Nonpoint source pollution controls and tree protection. All nonpoint source pollution controls, erosion controls, and tree protection measures and devices shall be in place, to the city public works director's satisfaction, prior to commencement of construction on any property.

(2006 Code, sec. 70-168; Ordinance 02-09-549, sec. 6.8, adopted 9/3/02)

Sec. 28.06.009 Inspection and acceptance of public improvements

(a) General procedure. Construction inspection shall be supervised by the city's public works director. Construction shall be in accordance with the approved engineering plans and the TCSS of the city (and other applicable codes and ordinances). Any change in design that is required during construction should be made by the licensed professional engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans, and if those revisions are noted on the plans or documents. All revisions shall be approved by the city engineer. If the city's public works director finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the city's standards and TCSS, then the property owner shall be responsible for completing and correcting the deficiencies (at his expense) such that they are brought into conformance with the applicable standards.

(b) Letter of satisfactory completion. The city will not deem required public improvements satisfactorily completed until the applicant's engineer or surveyor has certified to the city engineer, through submission of detailed sealed "as-built," or record, drawings of the property which indicate all public improvements and their locations, dimensions, materials and other information required by the city engineer, and until all required public improvements have been completed. The "as-builts" shall also include a complete set of sealed record drawings of the paving, drainage, water, sanitary sewer and other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with engineering plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet an "as-built" stamp bearing the signature and seal of the licensed professional engineer and the date. One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted. The engineer or surveyor shall also furnish the city with a copy of the approved final plat and the engineering plans, if prepared on a computer-aided design and drafting (CADD) system, in such a digital format (on disk) that is compatible with the city engineer's CADD

system. When such requirements have been met to the city public works director's satisfaction, the city manager (or designee) shall thereafter make a recommendation to the city council for consideration of satisfactory completion of the public improvements. Once the city council votes its approval of satisfactory completion, the city manager (or designee) shall issue the letter of satisfactory completion. Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the city for use and maintenance. The city council may, at its option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the property owner has posted a performance bond, letter of credit or cash bond in the amount of 100 percent of the estimated cost of those remaining improvements for a length of time to be determined by the city council. If the remaining public improvements are greater than \$10,000.00 and are not completed within the determined length of time, the city will impose a penalty that equals ten percent of the performance bond, letter of credit, or cash bond. The obligation to complete the improvements remains with the developer, and all future building permits or certificates of occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than \$10,000.00, the developer shall pay the actual dollar amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the city. Upon acceptance of the required public improvements, the city manager (or designee) shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

(2006 Code, sec. 70-169; Ordinance 02-09-549, sec. 6.9, adopted 9/3/02; Ordinance adopting 2015 Code)

Sec. 28.06.010 Deferral of required improvements

(a) The city council may, upon petition of the property owner and favorable recommendation of the city engineer, defer at the time of plat approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not required in the immediate interests of the public health, safety and general welfare.

(b) Whenever a petition to defer the construction of any public improvements required under this chapter is granted by the city council, the property owner shall deposit in escrow his share of the costs (in accordance with city participation and oversizing policies) of the future public improvements with the city prior to approval of the plat, or the property owner may execute a separate improvement agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the city.

(2006 Code, sec. 70-170; Ordinance 02-09-549, sec. 6.10, adopted 9/3/02)

Sec. 28.06.011 Issuance of building permits and certificates of occupancy

No building permit shall be issued for a lot, building site, building or use unless the lot or building site has been officially recorded by a final plat approved by the city council and filed for record with the county, and unless all public improvements, as required by this chapter for final plat approval, have been completed, except as may be permitted below:

- (1) A building "foundation only" permit may be issued for a nonresidential or multifamily development provided that a construction plat has been approved by the city council, and provided that the engineering plans have been released by the city engineer. However, the building permit shall not be issued and building construction shall not be allowed to surpass the construction of fire protection improvements. In other words, the building shall not proceed above the slab level until all required fire lanes have been completed, and until all water lines serving fire hydrants have been completed, inspected and tested.
- (2) The city building official may release some residential building permits for not more than ten percent of the lots within a new residential subdivision, provided that a construction plat has been approved by the city council and the engineering plans have been approved by the city's public works director, and provided that all public improvements have been completed for that portion of

the development including, but not limited to, those required for fire and emergency protection, such as streets providing at least two points of emergency access, alleys, water lines serving fire hydrants, and other similar, required public safety improvements. No lot may be sold nor title conveyed until the final plat has been approved by the city council and recorded with the county.

- (3) No certificate of occupancy shall be issued for a building or the use of property unless all subdivision improvements have been completed and a final plat has been approved by the city council and recorded at the county. Notwithstanding the above, the city manager (or designee) may authorize the conditional occupancy of a structure provided that an agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the city manager (or designee) for the completion of all remaining public improvements, and provided that the structure is safely habitable in accordance with the city's building codes.

(2006 Code, sec. 70-171; Ordinance 02-09-549, sec. 6.11, adopted 9/3/02; Ordinance adopting 2015 Code)

ARTICLE 28.07 FILING FEES AND PLAT RESUBMISSION REQUIREMENTS

Sec. 28.07.001 Schedule of fees and resubmission requirements

(a) Fees and charges, as well as other submission requirements, for the submission of applications for the approval of any type of plat and for engineering review and inspection shall be as provided in the city's current fee schedule as printed in appendix A to this code, and may be amended from time to time. It is the applicant's responsibility to obtain and comply with the city's current fee schedule as printed in appendix A to this code and submission requirements.

(b) Such fees and charges shall be imposed and collected on all applications for approval of any type of plat, regardless of the action taken by the city planning and zoning commission and city council thereon. Such fees shall be collected for the purpose of defraying the costs of administrative, clerical, engineering, planning and inspection services necessary to properly review and investigate plats and subdivision construction.

(c) Should a development proposal or plat application lapse or expire, or should it be denied by the commission or the city council, then that application ceases "pending" status and the project, and its corresponding series of development approvals and permits, shall be deemed to be ended, or "completed." Any reapplication for any type of development approval for that property shall be considered commencement of a new project, and shall be accompanied by new application materials, including new submission fees, and shall conform to all applicable city ordinances in effect at the time of submission of the new application.

(d) All required fees, unless specifically stated otherwise herein, shall be paid as required in other sections of this chapter. Inspection fees, as provided in the city's current fee schedule, as printed in appendix A to this code, shall be paid prior to city council acceptance of the public improvements for the subdivision and prior to filing the final plat at the county.

(2006 Code, sec. 70-201; Ordinance 02-09-549, sec. 7.1, adopted 9/3/02)

ARTICLE 28.08 ENFORCEMENT; VIOLATIONS; PENALTIES

Sec. 28.08.001 Enforcement; violations; penalties

In addition to all other remedies and relief available to the city at law or in equity for a violation of this chapter, the following nonexclusive forms of relief shall be available to the city:

- (1) Violations and penalties. Any person who violates any of these regulations for lands within the corporate boundaries of the city shall be subject to a fine of not more than \$2,000.00 per day, with

each day constituting a separate violation, pursuant to V.T.C.A., Local Government Code ch. 54, as amended.

- (2) Civil enforcement. Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct or abate a violation of these regulations, whether such violation occurs with respect to lands within the corporate boundaries of the city or within the city's extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.
- (3) Withholding of subdivision acceptance. Pursuant to the provisions of article 28.06 of this chapter, regarding requirements for acceptance of subdivisions by the city, the city may refuse to grant final acceptance of a subdivision that does not fully and completely comply with all terms and conditions of this chapter including, but not limited to, the refusal to issue building permits and certificates of occupancy, and the refusal to connect the property to city utilities and services.

(2006 Code, sec. 70-231; Ordinance 02-09-549, sec. 8.1, adopted 9/3/02)

CHAPTER 29

RESERVED

CHAPTER 30

ZONING

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ARTICLE 30.01 GENERAL PROVISIONS***Sec. 30.01.001 Title and purpose**

(a) Title. This chapter shall be known and may be cited as the city “comprehensive zoning ordinance” or “zoning ordinance.” For purposes of clarity, the term “chapter” as used herein shall include any and all amendments to the original zoning ordinance, adopted on May 17, 2004.

(b) Purpose. As authorized by V.T.C.A., Local Government Code ch. 211, the zoning regulations and districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the public health, safety, morals and general welfare, and protecting and preserving places and areas of historical, cultural and/or architectural importance and significance within the city. The zoning regulations and districts as established in this chapter have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to ensure adequate light and air; to prevent the overcrowding of land and thus avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, wastewater treatment, schools, parks and other public requirements. The zoning regulations and districts established in this chapter have been made with reasonable consideration, among other things, for the character of each zoning district and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

(2006 Code, sec. 86-1; Ordinance 04-05-610, sec. 2, adopted 5/17/04)

Sec. 30.01.002 Zoning district map

(a) The city is hereby divided into zones, or districts, and the boundaries of zoning districts set out herein are delineated upon the zoning district map of the city, which may also be cited as the “zoning map,” said map being adopted as a part of this chapter as fully as if the same were set forth herein in detail.

(b) One original of the zoning district map shall be filed in the office of the city secretary and labeled as “Official Zoning Map of the City of Murphy, Texas - Ordinance No. ____.” This copy shall be the official zoning district map and shall bear the signature of the mayor, attested by the city secretary, and shall bear the seal of the city under the following words: “This is to certify that this is the Official Zoning Map referred to in Section 3 of the Zoning Ordinance, Ordinance No. 04-05-610 of the City of Murphy, Texas, adopted on the 17th day of May, 2004.” This copy shall not be changed in any manner. In case of any question, this copy, together with amending ordinances, shall be controlling.

(c) A copy of the official zoning district map shall be placed in the office of the city manager, or his designee. The map copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments. Reproductions for informational purposes may only be made of the official zoning district map or this copy. Any changes or amendments made to the zoning district boundaries shall be made on the map copy promptly after the amendment has been approved by the city council, together with a descriptive entry on the map as follows: “On the ____ day of _____, 20____, by official action of the city council of Murphy, Texas, the following change(s) was made on the city’s official Zoning District Map: _____ (enter a brief description of the nature of the change), Ordinance No. _____, effective date _____. Each descriptive entry for a zoning map amendment shall be signed by the mayor and attested by the city secretary.

(d) In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret due to age, exposure, or the nature or number of changes or additions, the city council may adopt, by ordinance following a public hearing, a new official zoning map which shall replace and supersede the prior zoning map, but which shall not, in effect, amend or otherwise change the original official zoning map or any subsequent

* **Editor’s note**—This chapter consists of the zoning ordinance, Ord. 04-05-610, adopted May 17, 2004, as amended, previously published as chapter 86 in the 2006 Code of Ordinances. Section numbers, style, capitalization and formatting have been changed to be consistent with the remainder of the Code of Ordinances, and this will be maintained in future amendments to this chapter. Changes in the names of state agencies have been incorporated without notation. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets.

State law reference—Municipal zoning authority, V.T.C.A., Local Government Code, ch. 211.

amendment thereto. The new official zoning map shall bear the signature of the mayor, attested by the city secretary, and shall bear the seal of the city under the following words: "This is to certify that this official zoning map supersedes and replaces the original official zoning map referred to in Section 3 of the Zoning Ordinance, Ordinance No. 04-05-610 of the City of Murphy, Texas, adopted on the 17th day of May, 2004." Unless the prior official zoning map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

(2006 Code, sec. 86-2; Ordinance 04-05-610, sec. 3, adopted 5/17/04)

Sec. 30.01.003 Zoning district boundaries

The zoning district boundary lines shown on the zoning district map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the zoning district map, the following rules shall apply:

- (1) Boundaries shown as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- (2) Boundaries shown as approximately following platted lot/tract lines shall be construed as following such lot/tract lines.
- (3) Boundaries shown as approximately following city limits shall be construed as following such city limits.
- (4) Boundaries shown as following railroad lines shall be construed to be located along the centerline of the railroad right-of-way lines.
- (5) Boundaries shown as approximately following the centerlines of streams, rivers, creeks, canals, bodies of water, or drainageways shall be construed to follow such centerlines, and in the event of change in any such centerlines shall be construed to move with such centerlines.
- (6) Boundaries shown as parallel to, or extensions of, features described in subsections (1) through (5) of this section shall be so construed. Distances not specifically indicated on the zoning district map shall be determined by the scale of the map.
- (7) Whenever any street, alley or other public way is vacated by official action of the city council, or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley or other public way shall be automatically extended to the centerline of such vacated street, alley or public way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.
- (8) The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street unless, as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street.
- (9) Where physical features on the ground are at variance with information shown on the zoning district map, or if 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 (1) through (8) of this section, then the planning and zoning commission shall interpret and recommend to the city council the appropriate zoning district boundaries.
- (10) If the zoning of property is invalidated by a judgment of a court of competent jurisdiction, the property shall be considered classified as "A" [AG] (agricultural district) in the same manner as provided for newly annexed territory.

- (11) Zoning changes which are still valid and which were made between the effective date of the previous zoning ordinance (Ordinance No. 112, as amended), adopted on March 1, 1978, and May 27, 2004, are indicated in approximate locations on the zoning district map. For exact legal descriptions, refer to the adopting ordinances for each particular zoning change.

(2006 Code, sec. 86-3; Ordinance 04-05-610, sec. 4.1, adopted 5/17/04)

Sec. 30.01.004 Compliance required; application of regulations

(a) All land, buildings, structures or appurtenances thereon located within the city which are hereafter occupied, used, constructed, erected, removed, placed, demolished, and/or converted shall be occupied, used, erected, altered, removed, placed, demolished and/or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located, as hereinafter provided, or such shall be subject to penalties as per section 30.08.003. All of the standards and regulations prescribed herein shall be considered as the minimum requirement unless explicitly stated otherwise.

(b) No uses shall be allowed which are prohibited by state or federal law or which operate in excess of state or federal environmental, pollution or performance standards as determined by the U.S. Environmental Protection Agency (EPA), Texas Air Control Board (TACB), Texas Department of State Health Services (TDSHS), Texas Commission on Environmental Quality (TCEQ), Federal Aviation Administration (FAA), Federal Communications Commission (FCC), U.S. Army Corps of Engineers, or any other applicable state or federal agency, as the case may be.

(c) No lot/tract upon which a building has been erected shall later be so reduced in area that the setbacks, yards and/or open spaces shall be smaller than those required by this chapter, nor shall a part of a yard or other open space required by this chapter for any building/lot/tract be included as a part of a yard or other open space similarly required for another building/lot/tract.

(d) No building shall hereafter be erected or altered:

- (1) To have more narrow or smaller front, side or rear yards than those required by this chapter;
- (2) To exceed the maximum height allowed by this chapter;
- (3) To occupy a greater percentage of lot/tract area than allowed by this chapter; or
- (4) To accommodate or house a greater number of families than is specified within this chapter for the zoning district in which such building is located.

(2006 Code, sec. 86-4; Ordinance 04-05-610, secs. 5.1–5.4, adopted 5/17/04)

Sec. 30.01.005 Zoning upon annexation

(a) All land annexed into the city shall be zoned agricultural (“AG”) until such time as the property owner seeks to establish under the procedures set forth in article 30.02, division 5 of this chapter, other appropriate zoning in conformity with the city’s comprehensive plan. Said proceedings to establish zoning may be undertaken concurrently with annexation procedures (i.e., notified at the same time, public hearings scheduled at the same time as annexation, etc.), however zoning approval and formal adoption of the ordinance establishing zoning must occur after annexation approval and adoption have occurred, and as a separate and distinct action by the city council.

(b) The initial zoning of a land parcel, whether by initiation of the landowner or by initiation of the city, must meet the requirements for notification and public hearings as set forth in article 30.02, division 5 of this chapter and all other applicable state laws.

(c) The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of the petition for annexation, but no such annexation application may be made conditioned upon the approval of any particular zoning classification.

(d) Within an area classified as “AG” (agricultural):

- (1) No permit for the construction of a building or use of land shall be issued by the city manager or his designee, other than a permit which will allow the construction of a building or use permitted in the “AG” district, unless and until such territory has been classified in a zoning district other than the “AG” district by the city council in the manner prescribed by article 30.02, division 5 of this chapter, except as provided in subsection (d)(2) of this section.
- (2) If plans and preparations for developing a property for a use other than those specified in the “AG” district were already in progress prior to annexation of the property into the city, then the city council may authorize construction of the project by a majority vote. Application of this subsection is contingent upon the following:
 - (A) An application for a building permit for the proposed building or use must be made to the city manager or his designee within three months (i.e., within 90 calendar days) after annexation of the property into the city; and
 - (B) The applicant must be able to demonstrate that plans and other preparations for developing the property commenced prior to (i.e., were already in progress at the time of) annexation into the city.

(e) In its deliberations concerning authorization to proceed with construction of a project which meets the above criteria, the city council shall take into consideration the appropriate land use for the area as shown on the city’s future land use plan. Upon approval by the city council, the city manager (or his designee) shall notify the city planner/building official (or his designee) of such approval.

(2006 Code, sec. 86-5; Ordinance 04-05-610, sec. 6, adopted 5/17/04; Ordinance adopting 2015 Code)

Sec. 30.01.006 Definitions

For the purpose of this chapter, certain terms and words are to be used and interpreted as defined in this section. Words used in the present tense shall also include the future tense, words used in the masculine gender shall also include the feminine gender, words used in the singular number shall also include the plural number, and words in the plural number shall also include the singular number, except where the natural construction of the writing indicates otherwise. The word “shall” is mandatory and not directory. For any term or use not defined herein, Webster’s Dictionary (latest edition) shall be used.

Accessory building (business or industry). In nonresidential districts, a subordinate building used for purposes incidental to and in conjunction to with the main building that does not exceed the height of the main building and does not exceed 50 percent of the floor area of the main building.

Accessory building (residential). In a residential district, a subordinate building that is attached or detached and is used for a purpose that is customarily incidental to the main structure but not involving the conduct of a business. Examples may include, but are not limited to, the following: a private garage for automobile storage, tool shed, greenhouse, home workshop, children’s playhouse, storage building, garden shelter, etc.

Accessory use. A use that is customarily incidental, appropriate and subordinate to the principal use of land or buildings and that is located upon the same lot/tract therewith.

Airport or landing field. A place where aircraft can land and take off that is usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers.

Alley. A minor right-of-way that is dedicated to public use and which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may also be used for public utility purposes.

Alternative financial establishment. A check cashing business, payday advance or loan business, or a car title loan business. The term does not include a bank, savings and loan or credit union. With respect to a check cashing business, the term does not include: (1) a pawnshop or grocery store; or (2) a convenience store or similar retail business that cashes checks or money orders or issues money order or money transfers for a minimum flat fee as a service incidental to its main purpose of business provided the check cashing service does not constitute 25 percent or more of the trade of that business.

Ambulance service. The provision of private emergency transportation which may include mobile medical care, and which may include storage and maintenance of vehicles.

Amusement arcade (also video arcade). Any building, room, place or establishment of any nature or kind, and by whatever name called, where more than ten percent of the public floor area is devoted to three or more amusement devices that are operated for a profit, whether the same is operated in conjunction with any other business or not, including but not limited to such amusement devices as coin-operated pinball machines, video games, electronic games, shuffleboards, pool tables or other similar amusement devices. However, the term “amusement device,” as used herein, shall not include musical devices, billiard tables which are not coin-operated, machines that are designed exclusively for small children, and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports.

Amusement, commercial (indoor). An amusement enterprise that is wholly enclosed within a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, and that provides activities, services and/or instruction for the entertainment of customers or members, but not including amusement arcades. Uses may include, but are not limited to, the following: bowling alley, ice skating rink, martial arts club, racquetball/handball club, indoor tennis courts/club, indoor swimming pool or scuba diving facility, and other similar types of uses.

Amusement, commercial (outdoor). An amusement enterprise offering entertainment and/or games of skill to the general public for a fee wherein any portion of the activity takes place outdoors and including, but not limited to, a golf driving range, archery range, miniature golf course, batting cages, go-cart tracks, amusement parks, and other similar types of uses.

Antique shop. A retail establishment engaged in the selling of works of art, furniture and/or other artifacts of an earlier period, with all sales and storage occurring inside a building.

Art gallery or museum. An institution for the collection, display and/or distribution of objects of art or science, and which is typically sponsored by a public or quasi-public agency and generally open to the public.

Assisted living facility. Is defined by that definition as stated in section 26.09.002 “Definitions” of the Development Standards Ordinance of the City of Murphy, Texas.

Auto finance and leasing. Leasing of automobiles, motorcycles, and light load vehicles. No outside storage is permitted.

Auto laundry or carwash. A structure used to wash motorcycles, automobiles and light load vehicles.

Auto parts and accessory sales. The use of any building or other premises for the primary display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles. No outside storage is permitted.

Auto rental. Storage of vehicles for the purpose of renting automobiles or light trucks.

Auto sales. Retail sales of new or used automobiles or light load vehicles and the service of new or used vehicles.

Auto storage or auto auction. The storage or impoundment, on a lot/tract or tract which is paved in accordance with parking lot/tract paving requirements set forth in this chapter, of operable automobiles for the purpose of holding such vehicles for sale, distribution and/or storage. This definition shall not include the storage of wrecked or inoperable vehicles.

Automobile. A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, light-duty trucks and sport utility vehicles, vans and mini-vans, motor scooters and motorcycles.

Automobile accessory installation. Minor installation of minor automobile accessories such as car alarms, radio and stereo equipment, window tinting, pin-striping, cellular telephones and similar accessories.

Automobile repair garage. An establishment providing major or minor automobile repair services to all motor vehicles except heavy load vehicles.

Automobile repair, major. General repair or reconditioning of engines, air conditioning systems and transmissions for motor vehicles; wrecker service; collision repair services including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rustproofing; those uses listed under “Automobile repair, minor” and other similar uses.

Automobile repair, minor. Minor repair or replacement of parts, tires, tubes and batteries; diagnostic services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses and brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air conditioning systems; and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under “Automobile repair, major” or any other similar use. Vehicles which are inoperative or are being repaired may not remain parked outside these facilities for a period greater than 48 hours.

Automotive gasoline or motor fuel service station. Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of automotive fuels, lubricants and automobile accessories, including those operations listed under “Automobile repair, minor.” Vehicles which are inoperative or are being repaired may not remain parked outside these facilities for a period greater than 48 hours.

Bakery or confectionery (retail). A facility less than 1,500 square feet for the production and/or sale of baked goods.

Bakery or confectionery (wholesale or commercial). A manufacturing facility over 1,500 square feet for the production and distribution of baked goods and confectioneries intended for off-premises distribution.

Ballroom dancing. An establishment open to the general public for dancing.

Bank, savings and loan, or credit union. An establishment for the custody, loan exchange and/or issue of money, the extension of credit, and/or facilitating the transmission of funds.

Barn. A structure intended for the purpose of storing farming and ranching related equipment and/or housing livestock.

Basement (or cellar). A portion of a building that is partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground prior to berming, using measurements taken at each corner of the building which meets the ground or when subdivided and used for commercial or dwelling purposes, other than a janitor employed on the premises.

Bed and breakfast inn or facility. A dwelling occupied as a permanent residence by an owner or renter which serves breakfast and provides or offers sleeping accommodations in not more than five rooms for transient guests for compensation.

Block. A piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the city manager, or his designee, shall determine the outline of the block.

Boarding house or rooming house. A dwelling other than a hotel, where for compensation and by prearrangement for definite periods, lodging and/or meals are provided.

Building. Any structure intended for shelter, occupancy, housing or enclosure for any use or occupancy. When separated by dividing walls without openings in a manner sufficient to prevent the spread of fire, each portion of such structure so separated may be deemed a separate building.

Building height. The vertical distance measured from the average line of the highest and lowest points of that portion of the lot/tract covered by the building to the highest point of coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof.

Building line. A line parallel, or approximately parallel, to any lot/tract line at a specific distance therefrom, marking the minimum distance from the lot/tract line that a building may be erected.

Building, main or primary. A building in which the principal use of the lot/tract on which it is situated is conducted. In a residential district any residential dwelling shall be deemed to be the main building on the lot/tract on which it is situated.

Building materials and hardware sales. Materials, tools, and/or hardware customarily used in the construction of buildings and other structures, including facilities for outdoor storage of materials for retail sales. Outdoor storage must meet the requirement of this code.

Building site. See “Lot/tract” definition.

Bus station or terminal. Any premises for the transient housing and/or parking of motor-driven buses and the loading and unloading of passengers.

Caretakers’ or guards’ residence. A residence located on premises with a main residential or nonresidential use and occupied only by a caretaker or guard employed on the premises.

Carnival, circus or tent service (temporary). Outdoor or indoor commercial amusement provided on a temporary basis.

Car title loan business. An establishment that makes small, short-term consumer loans that leverage the equity of a customer’s motor vehicle as collateral by taking physical possession of title to the vehicle, by executing a sale-leaseback agreement with the customer or by executing a power of attorney with the customer, by means of which the borrower’s failure to repay the loan or make interest payments to extend the loan allows the car title loan business to take possession of the vehicle from the customer. And including those operations listed under “alternative financial establishment.”

Carport. A structure that is open on a minimum of two sides and designed or used to shelter not more than three vehicles and not to exceed 24 feet on its longest dimension. Also called “covered parking area.”

Cemetery or mausoleum. Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbarium’s crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

Cemetery, animal. Means the same as cemetery except only for the burial of dead animals.

Certificate of occupancy. An official certificate issued by the city through the city manager or his designee which indicates conformance with the zoning regulations and building codes and which authorizes legal use of the premises for which it is issued.

Check cashing business. An establishment that for a fee or other payment taken out of the proceeds of the transaction, provides payment to the customer (regardless of an existing checking or other relationship between the establishment and the customer) of an amount of money equal to the face of a check, draft, warrant, written authorization for an electronic transfer of money, or similar representation of payment owed by a third party to the customer. And including those operations listed under “alternative financial establishment.”

Child care center (or day care center). A commercial institution or place designed for the care or training of 12 or more unrelated children under 14 years of age for less than 24 hours a day.

Church, rectory or temple. A building for regular assembly for religious worship which is used primarily and designed for such purpose and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns or rabbis on the premises. For the purposes of this chapter, religious study and other similar activities which occur in a person’s primary residence shall not apply to this definition.

City. The City of Murphy, Texas.

City council. The governing body of the city.

City manager or his designee. The inspector or administrative official charged with responsibility for issuing permits and enforcing this chapter and building code of the city.

Civic center. A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, food service, convention and/or entertainment facilities owned and/or operated by a government agency.

Cleaning plant (commercial/wholesale). An industrial facility where fabrics are cleaned with substantially nonaqueous organic solvents on a commercial or wholesale basis.

Cleaning shop or laundry (small shop, pickup and self-service). A custom cleaning shop not exceeding 2,500 square feet of floor area and may include customer self-service laundry and cleaning.

College or university. An institution established for educational purposes, accredited or recognized by the state, offering courses for study beyond the secondary education level and covering a program or series of programs of academic study.

Commercial amusement (indoor). See “Amusement, commercial (indoor).”

Commercial amusement (outdoor). See “Amusement, commercial (outdoor).”

Community center. A building or complex of buildings that house cultural, recreational, athletic, food service and/or entertainment facilities owned and/or operated by a governmental agency or private nonprofit agency.

Community home. A place where not more than six physically or mentally impaired or handicapped persons are provided room and board, as well as supervised care and rehabilitation by not more than two persons as licensed by the state department of mental health and mental retardation (also see V.T.C.A., Human Resources Code ch. 123).

Comprehensive plan. The plan adopted by the city that consists of graphic and textual policies which govern the future development of the city and which consists of various components governing specific geographic areas and functions and services of the city.

Concrete batching plant (permanent). A permanent manufacturing facility for the production of concrete.

Concrete batching plant (temporary). A temporary manufacturing facility for the production of concrete during construction of a project, and to be removed when the project is completed.

Contractor's shop with outside storage yard. A building, part of a building, or land area for the construction or storage of materials, equipment, tools, products, and vehicles.

Convenience store with (or without) gasoline sales. A retail establishment selling a limited selection of prepared food or groceries for off-premises consumption, sundries and possibly gasoline, if pumps are provided. This establishment does not include or offer any automobile repair services.

Copy shop or printing shop. An establishment which reproduces, in printed form, individual orders from a business, profession, service, industry or government organization and occupies less than 4,000 square feet.

Country club (private). A land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available only to members and their guests.

Court. An open, unobstructed space, bounded on more than two sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

Coverage. The lot/tract area covered by all buildings located thereon, including the area covered by all overhanging roofs.

Custom personal service shop. A tailor, dressmaker, shoe shop, barbershop, beauty shop or similar shop offering custom service.

Day camp for children. A facility arranged and conducted for the organized recreation and instruction of children including outdoor activities on a daytime basis.

Density. The total number of residential buildings allowed upon a given tract of land usually expressed in total number of units per gross acres or net acre.

Detached. Having no physical connection above the top of the floor line of the first floor with any other building or structure.

Distribution center. A building or facility used for the storage and distribution of wholesale items/products.

Drapery or furniture upholstery shop. An establishment for the production, display and sale of draperies and soft coverings for furniture.

Dwelling. Any building or portion thereof, which is designed or used as living quarters for one or more families.

Dwelling, single-family attached (townhouse). See "Single-family dwelling, attached."

Easement. A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Educational facilities. Public and private primary, secondary and post-secondary educational facilities offering instruction in the branches of learning and study required to be taught by the Texas Education Agency; and such federally funded educational programs for preschool children, such as the Head Start program.

Electrical substation. A subsidiary station in which electric current is transformed.

Enclosed building. A structure which is floored, roofed and surrounded by outside walls, which contains no opening larger than 120 square feet in area normally open to the air and which contains no series of openings forming a divided opening larger than 120 square feet in area normally open to the air.

Fairgrounds or exhibition area. An area or space either outside or within a building for the display of topic-specific goods or information.

Family. Individuals living together as a single housekeeping unit in which not more than four individuals are unrelated to the head of the household by blood, marriage, or adoption.

Family home (residential child care). A facility that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six additional elementary school siblings of the other children given care. However, the number of children, including the caretaker's own, provided care at such facility shall not exceed 12 at any given time. No outside employment is allowed at the facility. This facility shall conform to V.T.C.A., Human Resources Code ch. 42, as amended, and in accordance with such standards as may be promulgated by the state department of human resources.

Farm, ranch, garden, crops or orchard. An area used for growing usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

Feed and grain store. An establishment for the selling of corn, grain and other foodstuffs for animals and livestock, and including implements and goods related to agricultural processes, but not including farm machinery.

Fire, police or municipal building. Any public service building of the municipal government including a library or city hall, but excluding storage yards, utility shops and equipment centers.

Floodplain. An area of land subject to inundation by a 100-year frequency flood as determined using standard engineering practices and generally as shown on the FIRM, flood insurance rate map of the city.

Floor area. The total gross square feet of floor space within the outside dimensions of a building including each floor level, but excluding carports, residential garages, and breezeways.

Floor area ratio (FAR). The floor area of a main building or buildings on a lot/tract, divided by the lot/tract area (see illustration 1 printed at the end of this chapter).

Florist shop. An establishment for the display and retail sale of flowers, small plants and accessories.

Food processing. A manufacturing or light industrial use that primarily deals with the processing and packaging of food products that are intended for human consumption, but which are not typically sold in volume to end users on the premises. Incidental retail sales of food products created and packaged on the premises may be allowed as an accessory use.

Food store. A retail business establishment that displays and sells consumable goods that are not to be eaten on the premises. Prepared food for off-premises consumption may be sold only as a secondary or accessory use.

Franchised private utility. A utility such as one distributing heat, chilled water, closed circuit television or similar service and requiring a franchise to operate in the city.

Fraternal organization, lodge, civic club, or union. An organized group having a restricted membership and specific purpose related to the welfare of the members such as Elks, Masons, Knights of Columbus, or a labor union.

Front yard. See “Yard, front.”

Funeral home or mortuary. A place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Furniture, home furnishings or appliance store. A retail store selling goods for furnishing the home including, but not limited to furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances.

Garage/accessory dwelling. A residential dwelling unit attached to or over a garage but not attached to the main residential structure.

Garage, private. An accessory building, or a part of a main building, that is enclosed on at least three sides, used for storage of automobiles and used solely by the occupants and their guests. Also called “enclosed parking space.”

Garden shop. A facility which is engaged in the selling of flowers, ornamental plants, shrubs, trees, seeds, garden and lawn supplies, and other materials used in planting and landscaping, but not including cultivation and propagation activities outside a building.

Gasoline service or filling station. See “Automotive gasoline or motor fuel service station.”

General commercial plant. Establishments other than personal service shops for the treatment and/or processing of products as a service on a for-profit basis including, but not limited to, newspaper printing, laundry plant, or cleaning and dyeing plants.

General manufacturing. See “Industrial, manufacturing.”

General retail stores. This major group includes retail stores which sell a number of lines of merchandise including but not limited to dry goods, apparel and accessories, furniture and home furnishings, small wares, small appliances, hardware, and food. The stores included in this group are known as department stores, variety stores, general merchandise stores, general stores, etc. (also see “Retail shop”).

Golf course. An area of 20 acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses.

Gymnastic or dance studio. A building or portion of a building used as a place of work for a gymnast or dancer or for instructional classes in gymnastics or dance.

Hauling or storage company. See “Motor freight company.”

Heavy load vehicle. A self-propelled vehicle having a manufacturer’s recommended gross vehicle weight (GVW) of greater than 16,000 pounds (including trailers), such as large recreational vehicles, tractor-trailers, buses, vans, and other similar vehicles. The term “truck” shall be construed to mean “heavy load vehicle” unless specifically stated otherwise.

Heavy machinery sales and storage. A building or open area used for the display, sale, rental or storage of heavy machinery, tractors or similar machines, or a group of machines which function together as a unit.

Heliport. An area of land or water or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and other heliport facilities.

Helistop. Means the same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.

Home occupation. Any activity carried out for gain in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, which occupation is clearly incidental and secondary to the use of the premises for residential purposes (see article 30.07, division 5 of this chapter).

Hospital. An institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities. Hospitals can be limited purpose establishments, such as:

- (1) **Acute care.** An institution where sick or injured patients are given medical and/or surgical treatment intended to restore them to health and an active life, and which is licensed by the state.
- (2) **Chronic care.** An institution where those persons suffering from illness, injury, deformity and/or deficiencies pertaining to age are given care and treatment on a prolonged or permanent basis and which is licensed by the state.

Hotel/motel, full service. Is defined by that definition as stated in section 26.10.001 “Definitions” of the Development Standards Ordinance of the City of Murphy, Texas.

Hotel/motel, limited service. Is defined by that definition as stated in section 26.10.001 “Definitions” of the Development Standards Ordinance of the City of Murphy, Texas.

Household appliance service and repair. The maintenance and rehabilitation of appliances that are customarily used in the home including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, vacuum cleaners, etc., but not including appliances/equipment which have internal combustion engines.

Household care facility. A dwelling unit which provides residence and care to not more than nine persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; or rendered temporarily homeless due to fire, natural disaster or financial setbacks, living together with not more than two supervisory personnel as a single housekeeping unit. This definition is subject to V.T.C.A., Health and Safety Code sec. 247.001 et seq. (Personal Care Facility Licensing Act [Assisted Living Facility Licensing Act]) and V.T.C.A., Human Resources Code sec. 123.001 et seq. (Community Homes for Disabled Persons Location Act) as they presently exist or may be amended in the future.

Household care institution. A facility which provides residence and care to ten or more persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; convalescing from illness; or temporarily homeless due to fire, natural disaster, or financial setback together with supervisory personnel.

Independent senior living facility. Is defined by that definition as stated in section 26.09.002 “Definitions” of the Development Standards Ordinance of the City of Murphy, Texas.

Industrial, manufacturing. Establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories, and characteristically use power-driven machines and materials-handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic consumer.

Industrialized home or modular home.

- (1) A residential structure that is:
 - (A) Designed for the occupancy of one or more families;
 - (B) Constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and
 - (C) Designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.
- (2) Industrialized housing includes the structure's plumbing, heating, air conditioning, and electrical systems.
- (3) Industrialized housing does not include:
 - (A) A residential structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof;
 - (B) Housing constructed of a sectional or panelized system that does not use a modular component; or
 - (C) A ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

Institution for alcoholic, narcotic or psychiatric patients. An institution offering outpatient treatment to alcoholic, narcotic or psychiatric patients.

Kennels (indoor pens). An establishment with indoor pens in which more than four dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained and/or sold for commercial purposes.

Kennels (outdoor pens). An establishment with outdoor pens in which more than four dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained and/or sold for commercial purposes.

Kindergarten or nursery school (private). An establishment where more than three children are housed for care and/or training during the day or portion thereof.

Kiosk. A small, freestanding, one-story structure having a maximum floor area of 100 square feet and used for retail purposes, such as automatic teller machines or the posting of temporary information and/or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of 50 square feet.

Kitchen, residential. Generally, that portion of a residential dwelling that is devoted to the preparation and/or cooking of food for the purpose of consumption by residents of the dwelling. A kitchen, as referred to within this chapter, generally indicates the presence of complete cooking facilities (i.e., stove, oven, microwave oven and/or refrigerator) as differentiated from a "kitchenette" which provides very limited cooking facilities (i.e., single-burner hot plate, under-counter refrigerator, microwave oven only, etc.).

Laboratory equipment manufacturing. A facility that makes or produces equipment or products used for research or testing.

Laboratory, scientific or research. An establishment that engages in research, testing or evaluation of materials or products, but not medically related (see "Medical facilities" and "Medical laboratory").

Landscaping. Material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees or palms, and non-living durable materials that are commonly used in landscaping such as, but not limited to, rocks, pebbles, sand, walls or fences, but excluding paving.

Laundromat or self-serve washateria. A facility where patrons wash, dry and/or dry clean clothing and other fabrics in machines that are operated by the patron.

Light load vehicle. A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) not greater than 16,000 pounds and having no more than two axles, such as pickup trucks, sport utility vehicles, vans and mini-vans, recreational vehicles (less than 32 feet in length), campers and other similar vehicles but not including automobiles and motorcycles.

Light manufacturing or industrial use. Manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing.

Loading space. An off-street space or berth used for the delivery and loading/unloading of vehicles.

Local utility line. The facilities provided by a municipality or a franchised utility company for distribution or collection of gas, water, surface drainage water, sewage, electric power or telephone service, including pad-mounted and pole-mounted transformers.

Lot/tract. A platted (as specified in V.T.C.A., Local Government Code ch. 212) parcel of land that is occupied or intended to be occupied by one main building or a group of main buildings and any accessory building, which includes such parking, landscaping and open space as are required by this chapter or other laws and/or ordinances, and also which has its principal frontage upon a public street. (See illustrations 6, 7 and 8 printed at the end of this chapter.)

Lot/tract area. The total area, measured on a horizontal plane, included within lot/tract lines.

Lot/tract, corner. A lot/tract which has at least two adjacent sides abutting for their full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees. (See illustration 9 printed at the end of this chapter.)

Lot/tract depth. The mean horizontal distance between the front and rear lot/tract lines which create an area that meets the zoning district's minimum width and depth requirements. (See illustration 7 printed at the end of this chapter.)

Lot/tract, double frontage. A lot/tract having frontage upon two non-intersecting streets, as distinguished from a corner lot/tract. (See illustration 5 printed at the end of this chapter.)

Lot/tract, flag. A lot/tract having access to a street by means of a parcel of land generally having a depth greater than its frontage, but not less than 35 feet. Flag, or panhandle, lot/tracts are typically discouraged.

Lot/tract frontage. That dimension of a lot/tract or portion of a lot/tract abutting onto a street, excluding the side dimension of a corner lot/tract.

Lot/tract, interior. A lot/tract other than a corner lot/tract.

Lot/tract, key. A corner lot/tract whose exterior side is adjacent to the front yard of another lot/tract.

Lot/tract line, front. The narrower side of the lot/tract abutting a street. Where two lot/tract lines abutting streets are of equal length, the owner shall have a choice in designating which shall be the lot/tract frontage. For a lot/tract which has a boundary line which does not abut the front street line, is not a rear lot/tract line, and lies

along the same general directional orientation as the front and rear lot/tract lines, said line shall be considered a front lot/tract line in establishing minimum setback lines. (See illustration 6 printed at the end of this chapter.)

Lot/tract line, rear. The lot/tract line farthest from and most parallel to the front lot/tract line. For triangular lot/tracts, the point opposite the front lot/tract line shall be considered the rear lot/tract line and have a value of zero. (See illustration 8 printed at the end of this chapter.)

Lot/tract line, side. Any lot/tract line not the front or rear lot/tract line.

Lot/tract lines or property lines. The lines bounding a lot/tract as defined in this section.

Lot/tract of record. A lot/tract which is part of a subdivision, the plat of which has been recorded in the office of the county clerk.

Lot/tract width. The horizontal distance measured between side lot/tract lines parallel to the front lot/tract line, and measured from the point on the building line which is closest to the front lot/tract line. (See illustration 6 printed at the end of this chapter.)

Main building. The building or buildings on a lot/tract which are occupied by the primary use.

Manufactured home display or sales. The offering for sale, storage, or display of new or previously owned movable manufactured housing units on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

Manufactured housing. Any one of two types of prefabricated housing products which are typically manufactured/assembled at a location other than the end user's permanent site, and which are regulated by the Texas Manufactured Housing Standards Act (Vernon's Ann. Civ. St. arts. 5221f and 5221f-1) [V.T.C.A., Occupations Code, ch. 1201] For the purpose of this chapter, there are two types of manufactured homes:

- (1) **Mobile home.** A movable dwelling designed to be transported on its own chassis on the highway (either intact or in major sections) by a prime mover, which is constructed with a base section so as to be independently self-supporting, and which does not require a permanent foundation for year-round living. A mobile home is also defined as any manufactured home that was constructed prior to June 15, 1976.
- (2) **HUD-code manufactured home.** A movable dwelling designed to be transported on the highway (either intact or in major sections) by a prime mover, which can be used as a residential dwelling either with or without a permanent foundation. A HUD-code manufactured home is also defined as a movable manufactured home that was constructed after June 15, 1976.

Manufactured housing park. A parcel of land not less than three acres nor greater than 35 acres which is designed, improved, or intended to be used for short-term or long-term occupancy by manufactured or mobile homes, trailers and/or recreational vehicles (including travel trailers) in designated spaces. The facility may include a residence for the owner/manager of the premises, utility hookups, accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities.

Manufactured housing space. A plot/tract of ground within a manufactured housing park, or manufactured housing subdivision which is designed for the accommodation of one manufactured or mobile home, trailer or RV unit.

Manufactured housing subdivision. A parcel of land which is designed, platted, improved and intended for the long-term placement of individually owned mobile home units or HUD-code manufactured homes on platted lot/tracts which can be purchased outright by the owners of the mobile home units. The facility may include a residence for the owner/manager of the premises, utility hookups, accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities.

Masonry construction. That form of construction composed of brick, stone, decorative concrete block or tile, or other similar building units or materials (or combination of these materials) laid up unit by unit and set in mortar, and shall exclude wall area devoted to doors and windows.

Mausoleum. Property used for the interring of the dead and where bodies are interred above ground in stacked vaults.

Medical facilities.

- (1) **Medical clinic or office.** A facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients provided that patients are not kept overnight except under emergency conditions.
- (2) **Dental office or doctor's office.** Means the same as “medical clinic.”
- (3) **Massage establishment.** Any place of business in which massage therapy is practiced by a massage therapist, as defined and licensed by state law. “Massage therapy,” as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, [or] tub, shower or cabinet baths. Equivalent terms for “massage therapy” are massage, therapeutic massage, massage technology, myotherapy or any derivation of those terms. Massage and “therapeutic” do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.
- (4) **Public health center.** A facility primarily utilized by a health unit for providing public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therewith.
- (5) **Sanitarium.** An institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.
- (6) **Surgical outpatient facility.** An establishment offering any type of surgical procedures and related care which, in the opinion of the attending physician, can be performed safely without requiring inpatient overnight hospital care and exclusive of such surgical and related care as licensed physicians ordinarily may elect to perform in their private offices.
- (7) **Medical laboratory.** An indoor establishment that includes laboratories and/or experimental equipment for medical testing, prototype design and development, and product testing.

Mini-warehouse. Small individual storage units for rent or lease, restricted solely to the storage of items. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

Minor medical emergency clinic. See “Medical clinic or office.”

Model home. A dwelling in a developing subdivision, located on a legal lot/tract of record, that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built within the same subdivision.

Motor freight company. A company using trucks or other heavy load vehicles to transport goods, equipment and similar products. The term “motor freight company” includes companies that move residential or commercial belongings.

Motor vehicle. Any vehicle designed to carry one or more persons which is propelled or drawn by mechanical power, such as automobiles, vans, trucks, motorcycles and buses.

Motorcycle. A usually two-wheeled, self-propelled vehicle having one or two saddles or seats, and which may have a sidecar attached. For purposes of this chapter, motorbikes, all-terrain vehicles (ATVs), motor scooters, mopeds and similar vehicles are classified as motorcycles.

Motorcycle sales and repair. The display, sale and/or servicing, including repair work, of motorcycles.

Multiple-family dwelling. Three or more dwelling units on a single lot/tract designed to be occupied by three or more families living independently of one another, exclusive of hotels or motels. Includes three-family units (triplex) and four-family units (quadraplex), as well as traditional apartments.

Municipal facility or use. Any area, land, building, structure and/or facility which is owned, used, leased or operated by the city.

Nonconforming use. A building, structure, or use of land lawfully occupied as of the effective date of this chapter, which does not conform to the use regulations of the district in which it is situated.

Nursery. An establishment, including a building, part of a building or open space, for the growth, display and/or sale of plants, shrubs, trees and other materials used in indoor or outdoor planting.

Nursing, convalescent or rest home. Is defined by that definition as stated in 26.09.002 "Definitions" of the Development Standards Ordinance of the City of Murphy, Texas.

Occupancy. The use or intended use of the land or buildings by proprietors or tenants.

Off-street parking incidental to main use. Off-street parking spaces provided in accordance with the requirements of this chapter, located on the lot/tract or tract occupied by the main use or within 150 feet of such lot/tract or tract, and located within the same zoning district as the main use or in an adjacent parking district.

Office center. A building or complex of buildings used primarily for conducting the affairs of a business, profession, service, industry, government or similar entity, that may include ancillary services for office workers such as a coffee shop, newspaper stand, sundries shop, hair/nail salon, etc.

Office showroom. An establishment with no more than 25 percent of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.

Office warehouse. An establishment with more than 25 percent of the total floor area devoted to storage and warehousing, but not generally accessible to the public.

Offices, professional and general business. A room or group of rooms used for the provision of executive, management and/or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations; but excluding medical offices. A room or group of rooms used for the provision of executive, management and/or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations; but excluding medical offices.

Officially approved place of access. Access to a property, other than from a dedicated street, which is approved by the city.

Outside display. Outside temporary display of finished goods that are specifically intended for retail sale but not displayed outside overnight.

Outside storage. The keeping, displaying or storing, outside a building, of any goods, materials, merchandise or equipment on a lot/tract or tract for more than 24 hours. Also referred to as open storage.

Paint shop. A commercial establishment where painting services are performed, but not automotive-related painting services. (For automotive-related painting services see “Automobile repair, major.”)

Parcel. Any unplatted tract of land, or any portion of an unplatted tract of land (also see “Tract”).

Park or playground (private). See “Private recreation facility.”

Park or playground (public). See “Public recreation.”

Parking lot/tract. An off-street, ground level area, paved in accordance with city parking lot/tract standards, for the short-term or long-term storage of motor vehicles.

Parking lot/tract or structure, commercial (auto). An area or structure devoted to the parking or storage of automobiles for a fee which may include, in the case of a parking structure only, a facility for servicing automobiles provided that such facility is an internal function for use only by automobiles occupying the structure and that such facility creates no special problems of ingress or egress.

Parking space. An off-street area, paved in accordance with city parking lot/tract standards, that is used for parking a vehicle, and that is accessed from a paved driveway which connects the parking space with a public street.

Patio home (zero-lot/tract-line dwelling). A single-family dwelling on a separately platted lot/tract which is designed such that one side yard setback is reduced to zero feet in order to maximize the width and usability of the other side yard. Patio home standards permit the construction of a detached single-family dwelling with one exterior portion of such dwelling placed on the side property line. (See article 30.03, division 8 of this chapter.)

Pawnshop. An establishment where money is loaned on the security of personal property pledged in the keeping of the owners (pawnbroker). Retail sales of primarily pre-owned items are also allowed, provided that the sale of such items complies with local, state and federal regulations.

Payday advance or loan business. An establishment that makes small consumer loans, usually backed by post-dated check or authorization to make an electronic debit against an existing financial account, in which the check or debit is held for an agreed-upon term or until the customer’s next payday, and then cashed or debited unless the customer repays the loan within the agreed time. And including those operations listed under “Alternative financial establishment.”

Personal service shop or custom personal services. Establishments less than 2,000 square feet in gross floor area, primarily engaged in providing services generally involving the care of the person or his apparel and including, but not limited to, barber/beauty shops, dressmaking, shoe shining and repair, dry cleaning and laundry pickup stations, tailor or seamstress services, and other similar types of uses. No outside storage permitted.

Pet and animal grooming shop. A retail establishment offering small animals, fish and/or birds for sale as pets, where such creatures are housed within the building, and which may include the grooming of dogs, cats and similar animals.

Petroleum distribution/storage/wholesale facility. A facility for the long-term storage and distribution of petroleum that may also involve wholesale sales, but not retail sales, of petroleum and petroleum-based products. No manufacturing or refining of petroleum or petroleum-based products occurs on the premises, only storage and/or distribution functions.

Planned development district. Planned associations of uses developed as integral land use units, such as industrial parks or industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing, including attached single-family dwellings or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or by a combination of owners.

Planning and zoning commission. An agency appointed by the city council as an advisory body, and which is authorized to recommend changes in the zoning of property and other planning functions as delegated by the city council. The planning and zoning commission is also referred to as the “commission.”

Plat. A plan showing the subdivision of land, creating building lot/tracts or tracts, showing all essential dimensions and other information in compliance with the subdivision standards of the city, and which is approved by the city and recorded in the plat records of the county.

Platted lot/tract. See “Lot/tract” and “Lot/tract of record.”

Playfield or stadium (private). An athletic field or stadium owned and operated by an agency other than the city or the school district.

Playfield or stadium (public). An athletic field or stadium owned and operated by a public agency for the general public including a baseball field, soccer field, golf course, football field or stadium which may be lighted for nighttime play.

Portable building sales. An establishment which displays and sells structures capable of being carried and transported to another location, but not including manufactured housing, as defined by this chapter.

Premises. Land together with any buildings or structures situated thereon.

Primary use. The principal or predominant use of any lot/tract or building.

Principal building. See “Main building.”

Private club. An establishment providing social and/or dining facilities which may provide alcoholic beverage service, to an association of persons, and otherwise falling within the definition of, and permitted under the provisions of, that portion of V.T.C.A., Alcoholic Beverage Code title 3, ch. 32, as the same may be hereafter amended, and as it pertains to the operation of private clubs.

Private recreation facility or private park. A recreation facility, park or playground which is not owned by a public agency such as the city or school district, and which is operated for the exclusive use of private residents or neighborhood groups and their guests and not for use by the general public.

Produce stand. A seasonal use for which the primary purpose and design is to sell fruit, nuts, vegetables and similar foods. No cooking or on-premises consumption of produce occurs on the site.

Professional service. Work performed which is commonly identified as a profession, and which may be licensed by the state.

Propane sales. Retail sales of gaseous substances commonly used for household purposes such as propane and/or butane; does not include the storage, sale or distribution of other types of combustible substances or alternative fuels such as containerized natural gas, liquid propane, etc.

Public agency building, shop, yard or facility. Any building, land, area and/or facility (including maintenance/storage yards and shops) which is owned, leased, primarily used and/or occupied by any subdivision or agency of the following: the state, the United States, or other public utility or agency. Any facility which is owned, leased, used and/or occupied by the city is defined as “municipal facility or use.”

Public recreation. Publicly owned and operated parks, recreation areas, playgrounds, swimming pools and open spaces that are available for use by the general public without membership or affiliation. This land use shall include special event type uses such as rodeos, concerts, festivals and other special events requiring special event permits, as set forth in this code.

Public view. Areas that can be seen from any public street.

Rear yard. See “Yard, rear.”

Recreation center. A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities.

Recreational vehicle (RV). A self-propelled, mobile living unit which is typically used for temporary human occupancy away from the users’ permanent place of residence. A recreational vehicle may also be utilized as a permanent place of residence within districts that allow them to be used as such. (See also “Heavy load vehicle.”)

Recreational vehicle (RV) park. An area or commercial campground for users of recreational vehicles, travel trailers, and similar vehicles to reside, park, rent or lease on a temporary basis. (See also “Mobile home park” [“Manufactured housing park”].)

Recreational vehicle/camper sales and leasing. An establishment that sells, leases and/or rents new and/or used recreational vehicles, travel trailers, campers, boats/watercraft, and similar types of vehicles.

Recycling kiosk. A small uninhabited structure, not to exceed 120 square feet, or temporary container which provides a self-service location for the depositing of recyclable materials such as aluminum cans, glass bottles, magazines/newspapers, metal or plastic containers, etc. Recyclables are picked up periodically from the site. This definition does not include large trailers or manned collection centers. This definition does not include donation boxes for clothing, toys, household goods, and similar items, which items are not permitted, nor have they ever been an allowed use in the city.

Rehabilitation care facility (halfway house). A dwelling unit which provides residence and care to not more than nine persons regardless of legal relationship who have demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct living together with not more than two supervisory personnel as a single housekeeping unit.

Rehabilitation care institution. A facility which provides residence and care to ten or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

Residence. Means the same as a dwelling; also, when used with district, an area of residential regulations.

Residential district. A district where the primary purpose is residential use.

Restaurant or cafeteria (with drive-through service). An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which may include a drive-through window.

Restaurant or cafeteria (with no drive-through service). An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which does not have a drive-through window.

Restaurant or eating place (drive-in service). An eating establishment where food and/or drinks are primarily served to customers in motor vehicles, or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises.

Retail or service, incidental. The rendering of retailing or services incidental to the primary use. Such retail or service use shall be operated for the benefit of convenience of the employees, visitors or customers of the primary use. Incidental uses shall mean uses which occupy less than 15 percent of the main use.

Retail store or shop. An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. (Also see “General retail stores.”)

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.

Rooming house. See “Boarding house.”

Salvage or reclamation of products. The reclamation and storage of used products or materials. (See also “Wrecking yard.”)

Sand, gravel or stone extraction and/or storage. The process of extracting and/or storing sand, gravel, stone, topsoil, compost or other products from the earth.

School, business. A for-profit business that offers instruction and training in a profession, service or art such as a secretarial or court reporting school, barber/beauty college or commercial art school, but not including commercial trade schools.

School, commercial trade. A for-profit business that offers vocational instruction and training in trades such as welding, brick laying, machinery operation/repair, and similar trades.

School, private (primary or secondary). A school under the sponsorship of a private agency or corporation, other than a public or religious agency, which offers a curriculum that is generally equivalent to public elementary and/or secondary schools.

School, public or parochial. A school under the sponsorship of a public or religious agency which provides elementary and/or secondary curricula, but not including private business or commercial trade schools.

Screened. Shielded, concealed, and effectively hidden from the view of a person standing at ground level on an abutting site, or outside the area or feature so screened, by a fence, wall, hedge, berm or similar architectural or landscape feature.

Seasonal uses. The sales of items such as Christmas trees, pumpkins, snow cones, fresh produce, and other items which are typically only available at certain times of the year.

Servant’s quarters or guesthouse. An accessory dwelling in a residential district for the sole use and occupancy of a member of the immediate family or of a person or persons employed on the premises by the occupant on a full-time basis as domestic help such as a maid, nanny/governess, groundskeeper, chauffeur, cook or gardener, but not involving the rental of such facilities or the use of separate utility connections for such facilities.

Sexually oriented business. See chapter 6, article 6.07.

Shopping center. A group of primarily retail and service commercial establishments that is planned, constructed and managed as a total entity, and which provides customer and employee parking on-site, unloading/delivery areas which are separated from customer access, and aesthetically appropriate design and protection from the elements.

Side yard. See “Yard, side.”

Single-family dwelling, attached. A dwelling that is part of a structure containing more than two dwellings, which is joined to another dwelling at one or more sides by a shared wall, which is designed for occupancy by one family, and which is located on a separate lot/tract delineated by front, side and rear lot/tract lines.

Single-family dwelling, detached. A dwelling designed and constructed as a freestanding structure for occupancy by one family, and located on a lot/tract or separate building tract having no physical connection to a building located on any other lot/tract or tract.

Small engine repair shop. A shop for the repair of lawnmowers, chainsaws, lawn equipment, and other machines with one-cylinder engines.

Stable, commercial. A stable used for the rental of stall space or for the sale or rental of horses or mules.

Stable, private. An area used solely for the owner's private purposes for the keeping of horses, mules or ponies which are not kept for remuneration, hire or sale.

Storage or wholesale warehouse. A building used primarily for the storage of goods and materials.

Story. That portion of a building (above grade) that is included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, then the space between the floor and the ceiling above it. For the purposes of computing building height pursuant to this chapter, the average height for a story shall be defined as 12 feet. The definition of a story does not include parapets, gables and other normal roof structures. In cases where the site has a significant slope, the number of stories of a building shall be measured from a point representing the average slope from front to back, or side to side, of the building.

Story, half. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half-story containing an independent apartment or self-contained living quarters shall be counted as a full story.

Street. Any dedicated public thoroughfare which affords the principal means of access to abutting property. A street is termed a major thoroughfare or arterial when the right-of-way is greater than 60 feet.

Street intersection. Any street which joins another street at an angle, whether or not it crosses the other.

Street yard. The area between the building front line and the front property line.

Structural alterations. Any change in the supporting members of a building, such as loadbearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water (also see definition of "Building").

Studio for radio and television. A building or portion of a building used as a place for radio or television broadcasting.

Studio, health/reducing/fitness. Means, but is not limited to, an establishment which provides facilities and equipment which are intended to promote health, fitness, weight reduction and/or similar health-related activities. Such facilities may include such accessory uses as food service, sales of sundries and apparel, and child care services, provided that such accessory uses are clearly incidental to the primary use and are for the use of studio patrons only. No outside signage may be used to advertise accessory uses.

Studio, tattoo or body piercing. A building or portion of a building used for selling and/or applying tattoos, permanent cosmetics, and/or for piercing the skin with needles, jewelry or other paraphernalia, primarily for the purpose of ornamentation of the human body.

Swimming instruction as a home occupation. The teaching of swimming in a private swimming pool. Within a residential district, this use is subject to the approval and issuance of a specific use permit which may specify operating conditions and standards and which may limit the number of students and operating times.

Swimming pool, commercial. A swimming pool with accessory facilities which is not part of the municipal or public recreational system and which is not a private swim club, but where the facilities are available for use by the general public for a fee.

Swimming pool, private. A swimming pool constructed for the exclusive use of the residents of a one-family, two-family or multiple-family dwelling and located, fenced and built in accordance with chapter 24, article 24.07. A private swimming pool shall not be operated as a business nor maintained in a manner to be hazardous or obnoxious to adjacent property owners.

Telemarketing center. An establishment which solicits business or the purchase of goods and/or services by telephone only. No sales of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

Telephone and exchange, switching/relay or transmitting station. A line for the transmission of telephone signals and a central office in which telephone lines are connected to permit communication but not including a business office, storage (inside or outside) or repair yards.

Temporary. Used or lasting for only a limited period of time; not permanent.

Temporary building. Any nonresidential prefabricated structure which is not originally manufactured or constructed at its use site, and does not require on-site installation of utilities and/or foundation.

Temporary field office or construction yard or office. A structure or shelter used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment. Temporary permits for one year for a specific time and location as determined may be issued by the city manager, or his designee and shall be subject to review and renewal for reasonable cause.

Tennis court, private. A surface designed and constructed for playing the game of tennis along with all fencing, nets and related appurtenances but excluding lighting for nighttime play in residential areas except as may be otherwise provided or restricted by the specific use permit.

Theater or playhouse (indoor). A building or part of a building devoted to the showing of motion pictures, or for dramatic, musical or live performances.

Theater, drive-in (outdoor). An open lot/tract with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

Tire dealer, no open storage. A retail establishment engaged in the sale and/or installation of tires for vehicles, but without open storage.

Tire dealer, with open storage. A retail establishment engaged in the sale and/or installation of tires for vehicles, with open storage.

Tool and machinery rental shop. A building or a portion of a building used for the display and rental of tools, machinery and instruments.

Tract. A single individual parcel or lot/tract.

Tractor sales. See "Heavy machinery sales and storage."

Trade and commercial schools. See "School, commercial trade."

Trailer, hauling. A vehicle or device which is pulled behind an automobile or truck and which is designed for hauling animals, produce, goods or commodities, including boats.

Trailer home. See “Manufactured housing, mobile home.”

Trailer or manufactured housing space. See “Manufactured housing space.”

Trailer park or court. See “Manufactured housing park.”

Trailer rental. The display and offering for rent of trailers designed to be towed by automobiles and light load vehicles.

Trailer, travel or camping. A portable or mobile living unit which is used for temporary human occupancy away from the users’ permanent place of residence, which does not constitute the users’ principal place of residence, and which is designed to be towed behind another vehicle.

Transportation and utility structures/facilities. Permanent facilities and structures operated by companies engaged in providing transportation and utility services including but not limited to railroad track rights-of-way, sewage pumping stations, telephone exchanges, transit station turnarounds, water reservoirs and water pumping stations.

Truck. A light or heavy load vehicle (see definitions for “Light load vehicle” and “Heavy load vehicle”).

Truck and bus leasing. The rental of new or used panel trucks, vans, trailers, recreational vehicles or motor-driven buses in operable condition and where no repair work or intensive cleaning operations are performed.

Truck and bus repair. An establishment providing major and minor automotive repair services to heavy load vehicles.

Truck sales (heavy trucks). The display, sale or rental of new or used heavy load vehicles in operable condition.

Truck stop. A facility for the parking, refueling and/or minor repair of heavy load vehicles, such as tractor-trailer trucks. These facilities may also include retail sales of food and/or other items, restaurants, restroom/showers facilities, and/or temporary sleeping quarters.

Truck terminal. An area and building where cargo is stored and where trucks, including tractor and trailer units, load and unload cargo on a regular basis. The term “truck terminal” may include facilities for the temporary storage of loads prior to shipment.

Two-family dwelling (duplex). Two attached dwellings in one structure, each designed to be occupied by one family.

Usable open space. An open area or recreational facility which is designed and intended to be used for outdoor living and/or recreation purposes. An area of usable open space shall have a slope not exceeding ten percent, shall have no dimension of less than ten feet, and may include landscaping, walks, recreational facilities, water features and decorative objects such as artwork or fountains (see also section 30.03.215(c) through (e)).

Use. The purpose for which land or buildings are or may be occupied in a zoning district.

Utility distribution/transmission lines. Facilities which serve to distribute and transmit electrical power, gas and water, including but not limited to electrical transmission lines, gas transmission lines, telephone lines and metering stations, whether operated by the city or private utility company.

Variance. An adjustment in the application of the specific regulations of this chapter to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the board of adjustment of the city can grant a variance.

Veterinarian clinic. An establishment where animals and pets are admitted for examination and medical treatment (also see “Kennels”).

Wrecking yard (junkyard or auto salvage). Any lot/tract upon which two or more motor vehicles of any kind, which are incapable of being operated due to condition or lack of license, have been placed for the purpose of obtaining parts for recycling or resale.

Yard. An open space at grade between a building and the adjoining lot/tract lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this chapter that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot/tract line and the main building shall be used. (See illustration 6.)

Yard, front. An open, unoccupied space located in front of the front elevation of a building and extending across a lot/tract between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building. (See illustration 6.)

Yard, rear. An open, unoccupied area extending across the rear of a lot/tract measured between the lot/tract lines and being the minimum horizontal distance between the rear lot/tract line and the rear of the outside wall of the main building. On both corner lot/tracts and interior lot/tracts, the rear yard shall in all cases be at the opposite end of the lot/tract from the front yard. (See illustration 8.)

Yard, side. An open, unoccupied area between the building and side line of the lot/tract and extending from the front lot/tract line to the rear lot/tract line and being the minimum horizontal distance between a side lot/tract line and the outside wall of the side of the main building. (See illustration 8.)

Zero-lot/tract-line dwelling. See “Patio home.”

Zoning board of adjustment. A board which is appointed by the city council, and which is authorized to grant special exceptions or variances to this chapter, and to hear and decide any appeals that allege error in an order, requirement, decision or determination made by an administrative official in the enforcement of this chapter. Also referred to as the “BOA.”

Zoning district. A classification applied to any certain land area within the city stipulating the limitations and requirements of land usage and development.

Zoning district map. The official map upon which the boundaries of the various zoning districts are drawn and which is an integral part of this chapter. (See section 30.01.002 regarding the zoning district map and section 30.01.003 regarding zoning district boundaries).

(2006 Code, sec. 86-6; Ordinance 04-05-610, sec. 49.1, adopted 5/17/04; Ordinance 11-07-887, sec. 4, adopted 7/5/11; Ordinance 15-06-994, sec. 7(a)–(l), adopted 6/2/15)

ARTICLE 30.02 ZONING PROCEDURES AND ADMINISTRATION

Division 1. Generally

Secs. 30.02.001–30.02.030

Reserved

Division 2. Nonconforming Uses and Structures

Sec. 30.02.031 Intent of provisions

(a) Within the districts established by this chapter or amendments thereto, there may exist lot/tracts, structures, uses of land and structures, and characteristics of use which were lawfully in existence and operating before this chapter was enacted, amended or otherwise made applicable to such lot/tracts, structures or uses, but which do not now conform to the regulations of the district in which they are located. It is the intent of this chapter to permit such nonconforming uses to continue, as long as the conditions within this division and other applicable sections of this chapter are met.

(b) It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded or extended, and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.

(c) Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

(2006 Code, sec. 86-51; Ordinance 04-05-610, sec. 7.1, adopted 5/17/04)

Sec. 30.02.032 Nonconforming status

(a) Any use, platted lot/tract or structure which does not conform with the regulations of this chapter on May 27, 2004, except as expressly provided in subsection (c) of this section, shall be deemed a nonconforming use, platted lot/tract or structure provided that:

- (1) Such use, platted lot/tract or structure was in existence under and in compliance with the provisions of the immediately prior zoning ordinance;
- (2) Such use, platted lot/tract or structure was a lawful, nonconforming use, platted lot/tract or structure under the immediately prior zoning ordinance; or
- (3) Such use, platted lot/tract or structure was in existence at the time of annexation into the city, was a legal use of the land at such time, and has been in regular and continuous use since such time.

(b) Any other use, platted lot/tract or structure which does not conform with the regulations of the zoning district in which it is located on May 27, 2004, and except as provided in subsection (c) of this section, shall be deemed to be in violation of this chapter, and the city shall be entitled to enforce fully the terms of this chapter with respect to such use, platted lot/tract or structure.

(c) The following types of platted lot/tracts shall be deemed in conformance with the provisions of this chapter, notwithstanding the fact that such lot/tract does not meet the standards of this chapter in the district in which it is located:

- (1) Any vacant lot/tract that conformed to the city's zoning district regulations at the time that it was platted; or
- (2) Any lot/tract occupied by a single-family dwelling authorized under the zoning district regulations in which the lot/tract is located.

(d) A lot/tract of record that is nonconforming may be occupied by a single-family dwelling.

(2006 Code, sec. 86-52; Ordinance 04-05-610, sec. 7.2, adopted 5/17/04)

Sec. 30.02.033 Continuing lawful use of land and structures

(a) A nonconforming use or structure may continue to be used, operated or occupied in accordance with the terms of the zoning regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was created.

(b) A nonconforming structure occupied by a nonconforming use may be reoccupied by a conforming use, following abandonment of the nonconforming use.

(2006 Code, sec. 86-53; Ordinance 04-05-610, sec. 7.3, adopted 5/17/04)

Sec. 30.02.034 Abandonment of nonconforming uses and structures, and cessation of use of structure or land

(a) If a nonconforming use or structure is abandoned, any future use of the premises shall be in conformity with the provisions of this chapter and with any other applicable city codes or ordinances that are in effect at the time the use is resumed or the structure is reoccupied.

(b) A nonconforming use or structure shall be conclusively deemed “abandoned” in the following circumstances, irrespective of any intent of the property owner, in the following circumstances:

- (1) The use ceases to operate for a continuous period of six months;
- (2) The structure remains vacant for a continuous period of six months; or
- (3) In the case of a temporary use, the use is moved from the premises for any length of time.

(c) The use of a nonconforming structure that has a replacement cost of \$2,000.00 or less, which does not conform to the provisions of this chapter, or any amendment thereto, shall be discontinued and the structure removed within six months following May 27, 2004.

(d) If the use of any lot/tract, tract or property that does not have a building on it and that is used for open/outside storage as of May 27, 2004, is made nonconforming by this chapter, then such storage use shall cease within six months following the effective date of such ordinance. The lot/tract, tract or property shall be cleaned up and all trash, debris, stored items and vehicles, and other materials shall be removed from the premises such that the property is not a physical or visual nuisance to the public or to surrounding property owners.

(2006 Code, sec. 86-54; Ordinance 04-05-610, sec. 7.4, adopted 5/17/04)

Sec. 30.02.035 Changing nonconforming uses

(a) A nonconforming use shall not be changed to another nonconforming use.

(b) A nonconforming use may be changed to a conforming use; however, once such change is made, the use shall not be changed back to a nonconforming use.

(c) A conforming use located in a nonconforming structure may be changed to another conforming use, but shall not be changed to a nonconforming use.

(2006 Code, sec. 86-55; Ordinance 04-05-610, sec. 7.5, adopted 5/17/04)

Sec. 30.02.036 Expansion of nonconforming uses and structures

(a) A nonconforming use may be extended throughout the structure in which it is located, except as set forth in section 30.02.035(c), provided that:

- (1) The structure or its premises shall not be enlarged or increased in height, in floor area or in land area to accommodate extension of the nonconforming use;
- (2) No alteration shall be made to the structure occupied by the nonconforming use, except those alterations that are required by law to preserve the integrity of the structure and alterations that would upgrade the quality, safety or aesthetic appeal of the structure; and
- (3) The number of dwelling units occupying the structure shall not exceed the number of dwelling units existing at the time the use became nonconforming.

(b) A nonconforming use occupying a structure shall not be extended to occupy land outside the structure.

(c) A nonconforming use or structure shall not be enlarged, increased or extended to occupy a greater area of land than was occupied at the time the use or structure became nonconforming, except to provide additional off-street parking or loading areas required by this chapter.

(2006 Code, sec. 86-56; Ordinance 04-05-610, sec. 7.6, adopted 5/17/04)

Sec. 30.02.037 Reconstruction or repair of nonconforming structure

(a) If more than 60 percent of the total appraised value, as determined by the county central appraisal district, of a nonconforming structure is destroyed by fire, the elements, or some other cause, then the structure may be rebuilt only in conformity with the standards of this chapter.

(b) If less than 60 percent of the total appraised value, as determined by the county central appraisal district, of a nonconforming structure is destroyed by fire, the elements, or some other cause, then the structure may be reconstructed as it was before the partial destruction but only to its original dimensions and floor area, and provided that such reconstruction is completed within six months following the event that caused the partial destruction. If reconstruction is delayed by contested insurance claims, litigation, or some other similar cause, then the six months reconstruction period may be extended, at the sole discretion of the city manager, or his designee. The denial of an extension is not subject to appeal.

(c) If a nonconforming structure that is totally or partially destroyed was occupied by a nonconforming use at the time of such destruction, then the nonconforming use may be re-established subject to the limitations on expansion set forth in section 30.02.036.

(d) Any conforming structure that is totally or partially destroyed shall be reconstructed only in conformity with the standards of this chapter.

(e) Nothing in this chapter shall be construed to prohibit the upgrading, strengthening, repair or maintenance of any part of any structure, conforming or nonconforming, that is declared unsafe or uninhabitable by the proper authority, unless such repairs or maintenance exceeds 60 percent of the structure's appraised value, as determined by the county central appraisal district. If the repairs exceed 60 percent of the structure's appraisal value, the structure shall be demolished and may only be rebuilt in conformity with this chapter.

(2006 Code, sec. 86-57; Ordinance 04-05-610, sec. 7.7, adopted 5/17/04)

Sec. 30.02.038 Moving of nonconforming structure

No nonconforming structure or building shall be moved in whole or in part to any other location on the lot/tract, or to any other location or lot/tract, unless every portion of such structure is in compliance with all the

regulations of the zoning district wherein the structure is to be relocated. Such building relocation shall also require a structure relocation permit from the city, and may also require platting of the intended building site pursuant to chapter 28, regarding subdivisions, as well as site plan approval per division 7 of this article. (2006 Code, sec. 86-58; Ordinance 04-05-610, sec. 7.8, adopted 5/17/04)

Sec. 30.02.039 Nonconforming lot/tracts

Nothing in this chapter shall be construed to prohibit the use of a lot that does not meet the minimum lot standards of the zoning district in which it is located, provided that the lot is zoned for the land use intended and the lot was platted as a lot of record prior to the effective date of the ordinance from which this chapter is derived. (2006 Code, sec. 86-59; Ordinance 04-05-610, sec. 7.9, adopted 5/17/04)

Sec. 30.02.040 Right to proceed preserved

Nothing contained in this division is intended to alter any rights that may have accrued under prior regulations, pursuant to V.T.C.A., Local Government Code sec. 43.002, or V.T.C.A., Local Government Code secs. 245.001–245.006. (2006 Code, sec. 86-60; Ordinance 04-05-610, sec. 7.10, adopted 5/17/04)

Secs. 30.02.041–30.02.070 Reserved

Division 3. Planning and Zoning Commission*

Sec. 30.02.071 Function

The planning and zoning commission (also referred to as the “commission”) shall function according to the following criteria which establish membership and operating procedures. The powers and duties of the planning and zoning commission are further defined in division 5 of this article. (2006 Code, sec. 86-81; Ordinance 04-05-610, sec. 8.1, adopted 5/17/04)

Sec. 30.02.072 Created; membership; officers; rules and bylaws

(a) Commission created. There is created, in accordance with V.T.C.A., Local Government Code ch. 211 and the home rule charter of the city, the “planning and zoning commission,” hereafter sometimes referred to as the “commission,” which shall consist of seven resident citizens, taxpayers and qualified voters of the city.

(b) Alternate members. In addition to the seven regular members of the planning and zoning commission, [there shall be] two alternate members of the commission who serve in the absence of one or more regular members. At the beginning of each meeting the chairman shall select the alternate member who may serve and vote in the absence of one or more regular members of the commission.

(c) Nomination for appointment. Members or alternate members shall be nominated for appointment by the mayor or by a council member of the city, and each person so nominated shall be approved by a simple majority vote of the city council before becoming a member or alternate member of the commission.

(d) Term. All appointments to the planning and zoning commission shall serve as a member or alternate member of the commission for a term of two years or until removed from the commission by the city council. The city council may remove or replace any commission member or alternate member at any time by a simple majority vote of the full council. No member or alternate member shall serve on the planning and zoning commission for more than three consecutive terms, exclusive of any unexpired term to which the member or alternate member may have been appointed to fill due to a vacancy on the commission.

(e) Vacancies. Any vacancy on the planning and zoning commission shall be filled for the remainder of the unexpired term via appointment by a simple majority vote of the city council.

* **Charter reference**—Planning and zoning commission, art. IX.

State law reference—Zoning commission, V.T.C.A., Local Government Code, sec. 211.007.

(f) Removal; attendance. Members and alternate members of the planning and zoning commission serve at will and may be removed from office at any time by a simple majority vote of the full city council either upon its own motion or upon recommendation of the planning and zoning commission. Failure to attend three consecutive scheduled meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control such as sickness of the member or someone within the member's immediate family.

(g) Meetings; compensation. The members of the planning and zoning commission shall regularly attend meetings and public hearings of the commission, shall serve without compensation, and shall not hold any other office or position with the city while serving on the commission. The planning and zoning commission shall meet a minimum of once per month at a time established by the commission.

(h) Officers. In July of each year, the planning and zoning commission shall elect from its members a chairman, vice-chairman and secretary to serve for one year beginning in that month. The planning and zoning commission secretary shall keep minutes of all meetings held by the planning and zoning commission as well as the full record of all recommendations made by the commission to the city council.

(i) Rules, regulations and bylaws. The planning and zoning commission shall have the power to make rules, regulations and bylaws for its own governance, which shall conform to those set forth by the city council, and such rules, regulations and bylaws shall be subject to approval by the city council. Such rules, regulations and bylaws shall include, among other items, provisions for:

- (1) All regular and special meetings to be open to the public, as required by the Texas Open Meetings Act, V.T.C.A., Local Government Code [Government Code] ch. 551;
- (2) A record to be kept of all proceedings, to be open for inspection by the public, as required by the Texas Open Meetings Act, V.T.C.A., Local Government Code [Government Code] ch. 551;
- (3) Reporting to the governing body and the public, from time to time and annually as requested; and
- (4) Rules of order and the holding of public hearings on its recommendations.

(2006 Code, sec. 86-82; Ordinance 04-05-610, sec. 8.2, adopted 5/17/04; Ordinance 04-07-614, sec. 2, adopted 7/19/04)

Charter reference—Organization of planning and zoning commission, sec. 9.01.

Sec. 30.02.073 Procedures and rules

The planning and zoning commission will follow the parliamentary procedure adopted by the city council, and procedures shall not be in conflict with the laws applicable to the commission on the following:

- (1) Quorum. A quorum shall consist of four voting commission members, and any issue to be voted upon shall be resolved by a majority of those members present.
- (2) Voting. Each commission member, including the presiding chairperson, shall be entitled to one vote on any question, if a quorum is present, unless prohibited under subsection (3) of this section.
- (3) Conflict of interest. If any member has a conflict of interest regarding any item on the commission's agenda, he shall remove himself from the room and shall refrain from voting or discussion on the item for which a conflict exists.

(2006 Code, sec. 86-83; Ordinance 04-05-610, sec. 8.3, adopted 5/17/04)

Charter reference—Procedures of planning and zoning commission, sec. 9.03; quorum, sec. 9.01(3).

Sec. 30.02.074 Meetings; public records

(a) The planning and zoning commission shall meet in the city hall building or in some other specified location as may be designated by the presiding chairperson and at such intervals as may be necessary to orderly and properly transact the business of the commission but not less than once each month.

(b) Any meeting of the planning and zoning commission shall be open to the public and posted in accordance with state law. Minutes of all open meetings of the planning and zoning commission shall be kept and are public record.

(2006 Code, sec. 86-84; Ordinance 04-05-610, sec. 8.4, adopted 5/17/04)

Sec. 30.02.075 Establishing extraterritorial jurisdiction

Statutes of the state authorizing and empowering cities to regulate the platting and recording of subdivisions or additions within the city's corporate limits and extraterritorial jurisdiction are hereby adopted, and the planning and zoning commission, acting through its duly authorized officials, shall have all the rights, powers, privileges and authority as authorized and granted by and through all relevant statutes pertaining to regulation of subdivisions in the city's limits and extraterritorial jurisdiction. (2006 Code, sec. 86-85; Ordinance 04-05-610, sec. 8.5, adopted 5/17/04)

Sec. 30.02.076 Powers and duties

(a) The planning and zoning commission shall have all the rights, powers, privileges and authority as authorized and granted by and through the statutes of the state authorizing and granting cities the power of zoning and subdivision regulation as found in V.T.C.A., Local Government Code chs. 211 and 212 and the city charter, as amended.

(b) The planning and zoning commission shall be an advisory body and adjunct to the city council, and shall make recommendations regarding amendments to the comprehensive plan, changes of zoning for real property, zoning and subdivision ordinance amendments, approval of plats of subdivisions, and other planning-related matters. The planning and zoning commission shall conduct a regular review of the city's comprehensive plan and shall be prepared to make recommendations to the city council, as deemed necessary, to keep the city's comprehensive plan current with changing conditions and trends and with the planning needs of the city. The planning and zoning commission shall also serve in an advisory capacity on any other planning-related matters in the city, including the periodic review of the city's impact fee ordinances.

(2006 Code, sec. 86-86; Ordinance 04-05-610, sec. 8.6, adopted 5/17/04)

Charter references—Duties and powers of planning and zoning commission, sec. 9.02; comprehensive plan, sec. 9.04.

Sec. 30.02.077 Procedure on zoning hearings

The procedure and process for zoning changes and amendments to this chapter shall be in accordance with division 5 of this article. (2006 Code, sec. 86-87; Ordinance 04-05-610, sec. 8.7, adopted 5/17/04)

Sec. 30.02.078 Joint meetings with city council

Whenever the city council and the planning and zoning commission are required by the laws of the state to conduct public hearings in matters pertaining to planning, zoning or subdividing property, and at other times when it is determined to be in the best interest of the city to do so, the city council and the planning and zoning commission are hereby authorized, after published notice as required by law, to hold joint meetings and to conduct joint public hearings. (2006 Code, sec. 86-88; Ordinance 04-05-610, sec. 8.8, adopted 5/17/04)

Secs. 30.02.079–30.02.110 Reserved

Division 4. Board of Adjustment (BOA)***Sec. 30.02.111 Created**

There is hereby created a board of adjustment, hereafter referred to as the “board” for the purpose, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to, to grant variances from and to hear appeals regarding the terms of this chapter that are consistent with the general purpose and intent of this chapter. The board shall be composed of members who are resident citizens, taxpayers and qualified voters of the city. (2006 Code, sec. 86-111; Ordinance 04-05-610, sec. 9.1, adopted 5/17/04)

Sec. 30.02.112 Membership; terms of office; officers

(a) The board of adjustment shall consist of seven regular members, who shall be appointed by a simple majority vote of the full city council, and shall operate in accordance with V.T.C.A., Local Government Code secs. 211.008–211.011, as amended, and the home rule charter of the city.

(b) The city council shall provide for the appointment of up to four alternate members to serve in the absence of one or more of the regular board members on an alternating basis such that all alternate members have equal opportunities to serve on the board.

(c) Regular board members and alternate members shall serve for a term of two years, and expiration of terms shall be staggered so that an overlapping of terms occurs (for example, in any two-year period, the terms of two regular members and two alternate members shall expire during one year, and the terms of three regular members and two alternate members shall expire during the second year). No member shall serve on the board of adjustment for more than three completed consecutive terms, exclusive of any unexpired term to which the member may have been appointed to fill due to vacancy on the board.

(d) Any vacancy on the board of adjustment, both regular and alternate members, shall be filled for the unexpired term via appointment by a simple majority vote of the city council for the remainder of the term.

(e) Members of the board of adjustment may be removed from office for cause, and after a public hearing, by a simple majority vote of the full city council. Failure to attend three consecutive scheduled meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member’s control such as sickness of the member or someone within the member’s immediate family.

(f) The members of the board of adjustment, and alternate members, as needed, shall regularly attend meetings and public hearings of the board, shall serve without compensation, and shall not hold any other office or position with the city while serving on the board.

(g) The board of adjustment shall elect a chairperson and a vice-chairperson from among its membership, and each officer shall hold office for one year or until replaced by a simple majority vote of the full board for any reason. The city manager’s designee shall serve as secretary to the board of adjustment, who shall keep minutes of all meetings held by the board. The secretary shall also set up and maintain a separate file for each application for hearing by the board of adjustment, and shall record therein the names and addresses of all persons/entities to whom notices are mailed, including the date of mailing and the person by whom such notices were delivered to the post office. All records and files herein provided for shall be permanent and official records of the city. The secretary shall also immediately notify in writing the city council, planning and zoning commission, and the city manager of each decision rendered by the board of adjustment in the conduct of its duties.

* **Charter reference**—Board of adjustment, sec. 9.05.

State law reference—Establishment and authority of zoning board of adjustment, V.T.C.A., Local Government Code, sec. 211.008 et seq.

(h) The board of adjustment shall have the power to make the rules, regulations and bylaws for its own governance, which shall conform as nearly as possible to those rules, regulations and bylaws governing the city council, and the board's rules, regulations and bylaws shall be subject to approval by the city council.

(2006 Code, sec. 86-112; Ordinance 04-05-610, sec. 9.2, adopted 5/17/04)

Charter reference—Number of members, term of members, sec. 9.05(2).

Sec. 30.02.113 Meetings

Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board may determine. All meetings of the board of adjustment shall be open to the public, and minutes shall be kept of all proceedings at board meetings. Six members of the board of adjustment shall constitute a quorum for the conduct of business. All cases to be heard by the board of adjustment shall always be heard by at least 75 percent of the members, which constitutes six members. (2006 Code, sec. 86-113; Ordinance 04-05-610, sec. 9.3, adopted 5/17/04)

Sec. 30.02.114 Authority

(a) The board of adjustment shall have the authority, subject to the standards established in V.T.C.A., Local Government Code secs. 211.008–211.011 and those established herein, to exercise powers and to perform duties including the following:

- (1) Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this chapter; and
- (2) Authorize, in specific cases, a variance (see section 30.02.116) from the terms of this chapter if the variance is not contrary to the public interest and if, due to special conditions, a literal enforcement of the chapter would result in unnecessary hardship, and so that the spirit of this chapter is observed and substantial justice is done.

(b) In exercising its authority under subsection (a)(1) of this section, the board of adjustment may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the board has the same authority as the administrative official.

(c) The concurring vote of at least 75 percent, or six members, of the full board of adjustment is necessary to:

- (1) Reverse an order, requirement, decision or determination of an administrative official;
- (2) Decide in favor of an applicant on a matter on which the board is required to review under this chapter;
- (3) Authorize a variance from a provision of this chapter; or
- (4) Hear and decide special exceptions to a provision of this chapter, as set forth in section 30.02.117.

(2006 Code, sec. 86-114; Ordinance 04-05-610, sec. 9.4, adopted 5/17/04)

Sec. 30.02.115 Limitations on authority

(a) The board of adjustment may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought, except as provided in section 30.02.117.

(b) The board of adjustment shall have no power to grant or modify specific use permits authorized under article 30.05 of this chapter.

(c) The board of adjustment shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the planning and zoning commission or the city council, the board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment by the commission and the city council.

(d) The board of adjustment shall not grant a variance for any parcel of property or portion thereof upon which a site plan, construction plat or final plat, where required, is pending on the agenda of the planning and zoning commission and, where applicable, by the city council. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the board of adjustment.

(2006 Code, sec. 86-115; Ordinance 04-05-610, sec. 9.5, adopted 5/17/04)

Sec. 30.02.116 Authorization of variances

(a) Generally. The board of adjustment may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance with the terms of this chapter. For example, if the subject property substantially differs from other similarly zoned land parcels by being of such restricted area, shape or slope so that it cannot reasonably be developed in the same manner as other similarly zoned land parcels, then a variance of the building setback, lot/tract width or depth, or parking requirements may be granted. In granting a variance, the board of adjustment shall prescribe only conditions that it deems necessary for, or desirable to, the public interest. In making the findings hereinbelow required, the board of adjustment shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work within the proposed use, and the probable effect such variance will have upon traffic conditions and upon the public health, safety, convenience and welfare of the community.

(b) Public notice and hearing required for variance. No variance shall be granted without providing public notice and holding a public hearing on the variance request in accordance with section 30.02.118 [30.02.119] and the board of adjustment shall make findings:

- (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land;
- (2) The circumstances or conditions are not economic hardships created by the property owner;
- (3) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- (4) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and
- (5) That the granting of the variance will not have an adverse effect on surrounding properties, preventing the use and enjoyment of other land within the area in accordance with the provisions of this chapter.

Such findings of the board of adjustment, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the board meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and that substantial justice may be done.

(c) Findings of undue hardship. In order to grant a variance, the board of adjustment must make written findings that an undue hardship exists, using the following criteria:

- (1) That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;

- (2) That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district;
- (3) That the relief sought will not injure the permitted use of adjacent conforming property; and
- (4) That the granting of a variance will be in harmony with the spirit and purpose of this chapter.

(d) When variance not granted. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely upon economic gain or loss, nor shall it permit any person the privilege of developing a parcel of land not permitted by this chapter on other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.

(2006 Code, sec. 86-116; Ordinance 04-05-610, sec. 9.6, adopted 5/17/04)

Sec. 30.02.117 Grant of special exceptions for nonconforming uses and structures

Upon written request of the property owner, the board of adjustment may grant special exceptions to the provisions of division 2 of this article, limited to the following, and in accordance with the following standards:

- (1) Expansion of the land area of a nonconforming use, up to a maximum of ten percent.
- (2) Expansion of the gross floor area of a nonconforming structure, up to a maximum of ten percent, provided that such expansion does not decrease any existing setback and does not encroach onto adjacent property.
- (3) Change from one nonconforming use to another, reconstruction of a nonconforming structure that has been totally destroyed, or resumption of a nonconforming use previously abandoned, only upon a finding that the failure to grant the special exception deprives the property owner of substantially all use or economic value of the land.
- (4) In granting special exceptions under this section 30.02.117, the board of adjustment may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare, including but not limited to conditions specifying the period during which the nonconforming use may continue to operate or exist before being brought into conformance with the standards of this chapter.
- (5) The board of adjustment may authorize a special exception for the enlargement, expansion or repair of a nonconforming structure if such enlargement, expansion or repair will improve the condition of the structure, if it will bring the structure closer into compliance with this chapter, or if it will otherwise improve or enhance public health, safety or welfare.

(2006 Code, sec. 86-117; Ordinance 04-05-610, sec. 9.7, adopted 5/17/04)

Sec. 30.02.118 Appeals

(a) Authority. In addition to the authorization of variances and special exceptions from the terms of this chapter, the board of adjustment shall have the authority to hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this chapter. The board of adjustment may reverse or affirm, in whole or in part, or may modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose, the board has the same authority as the administrative official.

(b) Who may appeal. Any of the following persons may appeal to the board of adjustment a decision made by an administrative official:

- (1) A person directly aggrieved by the decision; or
- (2) Any officer, department, board or office of the city affected by the decision.

(c) Procedure for appeal. The appellant must file with the board of adjustment and the official from whom the appeal is taken a written notice of appeal specifying the grounds for the appeal. The notice of appeal shall be filed within 15 calendar days after the decision has been rendered. Upon receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board of adjustment all papers constituting the record of action that is appealed. An appeal stays all proceedings in furtherance of the action that is appealed. The board of adjustment may hold an expedited hearing in the event the official, from whom the appeal is taken, certifies in writing to the board of adjustment facts supporting the official's opinion that a stay would cause imminent peril to life or property. The appellant party may appear at the appeal hearing in person, by agent or through an attorney. The board of adjustment shall decide the appeal within 30 calendar days after the written appeal request was received. The board of adjustment may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.

(d) City council member not to bring appeal. A member of the city council may not bring an appeal to the board of adjustment.

(2006 Code, sec. 86-118; Ordinance 04-05-610, sec. 9.8, adopted 5/17/04)

Sec. 30.02.119 Procedures

(a) Application and fee. An application for a variance, special exception or appeal by the board of adjustment shall be made in writing using forms prescribed by the city, and shall be accompanied by an application fee, as set forth in the currently adopted city fee schedule as printed in appendix A to this code, a site plan, and any other additional information as may be requested in order to properly review the application. Such information may include, but is not limited to, plat plans, site building plans, photographs, topographic contour maps, and other similar documents. All drawings must be to scale.

(b) Review and report by the city. The city manager, or his designee, shall visit the site where the application for the proposed variance or special exception would apply and the surrounding area, and shall report his findings to the board of adjustment.

(c) Notice and public hearing. The board of adjustment shall hold a public hearing for consideration of the variance or special exception request no later than 45 calendar days after the date the application for action, or an appeal, is filed. Written notice of the public hearing for a variance or special exception shall be provided to all property owners, via U.S. mail, within 200 feet of the affected property at least ten calendar days prior to the public hearing. Notice shall also be published in the official local newspaper before the 15th calendar day prior to the public hearing.

(d) Action by the board of adjustment. The board of adjustment shall not grant a variance unless it finds, based upon compelling evidence provided by the applicant, that each of the conditions in section 30.02.116 has been satisfied. The board of adjustment may impose such conditions, limitations and safeguards as it deems appropriate upon the granting of any variance or special exception as are necessary to protect the public health, safety, convenience and welfare. Violation of any such condition, limitation or safeguard shall constitute a violation of this chapter.

(e) Burden of proof. The applicant bears the burden of proof in establishing the facts that may justify a variance, a special exception, an appeal, or any other action in his favor by the board of adjustment.

(f) Waiting period. No appeal to the board of adjustment for the same or a related variance or special exception on the same piece of property shall be allowed for a period of six months following an unfavorable ruling by the board unless other property in the immediate vicinity has, within the six-month waiting period, been changed or acted upon by the board or the city council so as to alter the facts and conditions upon which the previous unfavorable board action was based. Such changes of circumstances shall permit the rehearing of a variance or special exception request by the board of adjustment, but such circumstances shall in no way have any force in law to compel the board, after a hearing on the matter, to grant a subsequent variance or special exception request. Any subsequent variance or special exception request shall be considered entirely on its own merits and on the specific circumstances related to the subject property.

(g) Timeliness of application for building permit or certificate of occupancy. Upon a favorable board of adjustment action on a variance or special exception request, the applicant shall apply for a building permit or a certificate of occupancy, as applicable to his particular situation, within three months following the date of board action, unless the board specifies a longer time period in the minutes of its action. If the applicant fails to apply for a building permit or certificate of occupancy, as applicable, within the three-month time frame, then the special exception shall be deemed to have been waived, and all rights thereunder shall be terminated. Such termination and waiver shall be without prejudice to a subsequent appeal, and such subsequent appeal shall be subject to the same regulations and requirements for hearing as herein specified for the original variance or special exception request.

(2006 Code, sec. 86-119; Ordinance 04-05-610, sec. 9.9, adopted 5/17/04)

Sec. 30.02.120 Finality of decisions; judicial review

All decisions of the board of adjustment are final and binding. However, any person aggrieved by a decision of the board of adjustment may present a verified petition to a court of record which states that the decision of the board is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition must be presented within ten calendar days after the date the board of adjustment's decision is filed in the city secretary's office. (2006 Code, sec. 86-120; Ordinance 04-05-610, sec. 9.10, adopted 5/17/04)

Secs. 30.02.121–30.02.150 Reserved

Division 5. Amendments to Zoning Ordinance and Districts; Administrative Procedures; Enforcement

Sec. 30.02.151 Declaration of policy and review criteria

(a) The city declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

- (1) To correct any error in the regulations or map;
- (2) To recognize changed or changing conditions or circumstances in a particular locality;
- (3) To recognize changes in technology, the style of living, or manner of conducting business;
- (4) To change the property to uses in accordance with the city's adopted comprehensive plan; or
- (5) To promote the general welfare of the community in furtherance of legitimate governmental objectives.

(b) In making a determination regarding a requested zoning change, the planning and zoning commission and the city council shall consider the following factors:

- (1) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;

- (2) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;
- (3) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances which may make a substantial part of such vacant land unavailable for development;
- (4) The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;
- (5) How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved; and
- (6) Any other factors which will affect or impact the public health, safety, morals, or general welfare.

(2006 Code, sec. 86-141; Ordinance 04-05-610, sec. 10.1, adopted 5/17/04)

Sec. 30.02.152 Authority to amend zoning provisions

(a) The city council may from time to time, after receiving a recommendation thereon by the planning and zoning commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the zoning map. Any amendment to the text of this chapter or to zoning district boundaries may be ordered for consideration by the city council, may be initiated by the planning and zoning commission, or may be requested by the owner of real property, or his authorized representative.

(b) Consideration for a change in any zoning district boundary line or special zoning regulation may be initiated only by the property owner or his authorized agent (proof of such authorization must be submitted with the zoning application, per section 30.02.153), or by the planning and zoning commission or the city council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown in city records are different, the applicant shall submit proof of ownership and verification that he is acting as an authorized agent for the property owner.

(c) No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the city, and which are directly attributable to a piece of property requested for zoning shall be allowed to submit a zoning request until the taxes, assessments, debts, or obligations directly attributable to said property and owned by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the city has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes have been paid.

(2006 Code, sec. 86-142; Ordinance 04-05-610, sec. 10.2, adopted 5/17/04)

Sec. 30.02.153 Application

(a) Each application for zoning, rezoning, specific use permit (SUP), or for a text amendment to a provision of this chapter, shall be made in writing on an application form available in the city manager's or his designee's office. The application shall be delivered to the city at least 30 days prior to the date of the public hearing before the planning and zoning commission, and shall be accompanied by payment of the appropriate fee as established in the currently adopted city fee schedule as printed in appendix A to this code. An accurate metes and bounds description of the subject property, or other suitable legal description, a survey exhibit, and other appropriate exhibits such as: site plans, maps, architectural elevations, information about proposed uses, etc., that are determined necessary by the city manager, or his designee, shall also be submitted with the zoning application in order to ensure that the request is understood. A concept plan, as prescribed in division 7 of this article, shall also

be submitted along with any zoning request involving a specific use permit (SUP) request or the formation of a planned development (PD) district.

(b) All zoning change requests involving real property shall be accompanied by a notarized statement verifying land ownership and, if applicable, authorization of the land owner's agent to file the zoning change request.

(c) Official submission date and completeness of application:

- (1) For the purpose of these regulations, the "official submission date" shall be the date upon which a complete application for a zoning change request, containing all elements and information required by this chapter, is submitted to the city manager or his designee. No application shall be deemed officially submitted until the city manager, or his designee determines that the application is complete and a fee receipt is issued by the city. Failure by the city manager, or his designee, to make a determination of incompleteness within ten calendar days following the date on which the application was first received by the city shall result in the application being deemed complete, and the "official submission date" shall become the tenth calendar day following initial receipt of the application by the city.
- (2) Zoning applications which do not include all required information and materials will be considered incomplete, shall not be accepted for official submission by the city and shall not be scheduled on a planning and zoning commission agenda until the proper information is provided to city staff.

(2006 Code, sec. 86-143; Ordinance 04-05-610, sec. 10.3, adopted 5/17/04)

Sec. 30.02.154 Notice of public hearing

(a) For zoning and rezoning requests involving real property, the planning and zoning commission shall hold at least one public hearing on each zoning application, as required in V.T.C.A., Local Government Code ch. 211, as amended. For proposed changes to zoning district boundaries, notice of the public hearing to occur before the planning and zoning commission shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the city before the 15th calendar day prior to the date of the public hearing. Written notice of the public hearing shall also be sent to all owners of property, as indicated by the most recently approved city tax roll, that is located within the area of application and within 200 feet of any property affected thereby, said written notice to be sent before the tenth calendar day prior to the date such hearing is held. Such notice may be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, postage paid, in the United States mail.

(b) For requests involving proposed changes to the text of this chapter, notice of the planning and zoning commission hearing shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the city before the 15th calendar day prior to the date of the public hearing. Changes in the text of this chapter which do not change zoning district boundaries do not require written notification to individual property owners.

(c) The city may, at its option, establish additional rules and procedures for public notification of proposed zoning changes and development proposals which may include, but not be limited to, the posting of a sign on any property that is proposed for a zoning change or development by the applicant or its agent. Knowledge of and adherence to such rules and procedures, if so established by the city, shall be the responsibility of the applicant and shall be required as part of a zoning change or development application. The city shall make available one copy of all rules and procedures in the city manager's office.

(2006 Code, sec. 86-144; Ordinance 04-05-610, sec. 10.4, adopted 5/17/04)

Sec. 30.02.155 Failure to appear

Failure of the applicant or his authorized representative to appear before the planning and zoning commission or the city council for one hearing without an approved delay by the city manager, or his designee, shall constitute sufficient grounds for the planning and zoning commission or the city council to table or deny the application unless the city is notified in writing by the applicant at least 72 hours prior to the hearing. (2006 Code, sec. 86-145; Ordinance 04-05-610, sec. 10.5, adopted 5/17/04)

Sec. 30.02.156 Planning and zoning commission consideration and recommendation

(a) The planning and zoning commission shall perform its duties in accordance with division 3 of this article and with applicable provisions in this code.

(b) The planning and zoning commission shall hold a public hearing on a zoning or rezoning request. After all public input has been received and the public hearing closed, the commission shall make its recommendations on the proposed zoning request and concept plan, if applicable, stating its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the city's comprehensive plan. The planning and zoning commission may, on its own motion or at the applicant's request, defer its decision/recommendation for not more than 90 calendar days from the time the public hearing was first opened, or until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the commission elects to defer the request, such deferment shall specifically state the time period of the deferment by citing the meeting date whereon the request will reappear on the commission's agenda, and further notice in the newspaper and to surrounding property owners shall not be required.

(c) When the planning and zoning commission is ready to act upon the zoning request, it may recommend approval of the request as it was submitted by the applicant, approval of the request subject to certain conditions or disapproval of the request. If the planning and zoning commission's recommendation is to approve the request, either as submitted or with additional conditions, then the request will be automatically forwarded to the city council for a second public hearing thereon, as provided in section 30.02.157.

(d) If the planning and zoning commission recommends denial of the zoning change request, it shall provide reasons to the applicant for the denial, if requested by the applicant. The planning and zoning chairperson shall inform the applicant of the right to receive reasons for the denial.

(2006 Code, sec. 86-146; Ordinance 04-05-610, sec. 10.6, adopted 5/17/04)

Sec. 30.02.157 City council consideration

(a) Applications forwarded from the planning and zoning commission to the city council.

- (1) Every zoning application which is recommended for approval or approval with conditions by the planning and zoning commission shall be automatically forwarded to the city council for a second public hearing to be held following appropriate public hearing notification as prescribed in section 30.02.154. The city council may then approve the request, approve it with conditions, or disapprove it by a single majority vote of the council members present and voting.
- (2) An application which is recommended by the planning and zoning commission for denial shall not be forwarded to the city council unless the applicant files a written appeal with the city secretary within ten calendar days after the commission's decision. Upon notice of appeal, the application will be forwarded to the city council along with the commission's reasons for denial of the request. The appeal shall be scheduled for the next possible city council agenda, following appropriate public notification as prescribed in section 30.02.154. Ultimate approval of any zoning request which was recommended for denial by the planning and zoning commission will require a three-fourths majority vote of the full city council. No zoning change, however, shall become effective until after the adoption of an ordinance by the city council for same and its publication as required by law.

(b) City council action on zoning, rezoning or text amendment requests. After a public hearing is held before the city council regarding the zoning application, the city council may approve the request in whole or in part, deny the request in whole or in part, defer the application to a future meeting, specifically citing the city council meeting to which it is deferred, or it may refer the application back to the planning and zoning commission for further study.

(1) If the city council approves the request, then subsection (f) of this section will apply.

(2) If the city council denies the request, then no other zoning application may be filed for all or part of the subject tract of land, or for that portion of this chapter, in the case of a text amendment request submitted by a property owner or citizen, for a period of one year following the denial. Where the request was initiated by the city and involved a proposed amendment to the text of this chapter, a waiting period is not required before the request can be reconsidered. The city council may, at its option, waive the one-year waiting period.

(c) Notice of the city council hearing for zoning changes. Notice of the city council public hearing for a zoning, rezoning or text amendment request to this chapter shall be given in the same manner as that for the public hearing before the planning and zoning commission as required in section 30.02.154.

(d) Protests. For zoning and rezoning requests involving real property, a favorable vote of three-fourths of all members of the city council shall be required to approve any change in zoning when written objections are received from 20 percent or more of the land area covered by the proposed change, or of the land area within 200 feet of the subject property, in accordance with the provisions of V.T.C.A., Local Government Code sec. 211.006, commonly referred to as the "20 percent rule." If a protest against such proposed zoning change has been filed with the city secretary, duly signed and acknowledged by the owners of 20 percent or more, either of the area of the land included in such a proposed change or those owners of property immediately adjacent to the subject property and extending 200 feet therefrom, such zoning change shall not become effective except by a three-fourths vote of the full city council.

(e) Joint public hearings. The city council may hold a joint public hearing on a zoning, rezoning or text amendment request to this chapter along with the planning and zoning commission, but the city council shall not take action on the request until it has received a final recommendation from the commission. Notification for the city council's public hearing, whether held separately or jointly with the commission, may be accomplished simultaneously with the public notification given for the public hearing to be held before the planning and zoning commission.

(f) Final approval and ordinance adoption. Upon approval of the zoning request by the city council, the applicant shall submit all related material with revisions, if necessary, to the city manager, or his designee, for the preparation of the amending ordinance. The zoning request shall be deemed approved at the time the city council takes action to approve the request as submitted or with certain conditions. However, the amending ordinance will not be prepared for adoption until a correct description and all required exhibits have been submitted to the city manager, or his designee, and the amending ordinance shall not be formally adopted until it is adopted by the city council, signed by the mayor, and attested by the city secretary.

(2006 Code, sec. 86-147; Ordinance 04-05-610, sec. 10.7, adopted 5/17/04)

Sec. 30.02.158 Administration and enforcement

(a) Generally. The city manager, or his authorized representative, shall administer and enforce the provisions of this chapter. If the city manager, or his authorized representative finds upon his own personal observation, or upon receipt of a complaint, that the provisions of this chapter are being violated, he shall immediately investigate and, when necessary, give written notice to the person responsible to cease or correct such violation immediately. Notice shall be delivered in person or by certified mail to the violator or to any person owning or leasing a property where the violation is occurring. The city manager, or his authorized representative, shall have the right to enter upon any premises at any reasonable time in conformance with local and state laws, for the

purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this chapter.

(b) **Stop work orders.** Whenever any building or construction work is being done contrary to the provisions of this chapter, the city manager, or his authorized representative, shall have the authority to order the work stopped by notice in writing served on the property owner or the contractor doing the work or causing such work to be done, and any such person shall forthwith stop such work until authorized in writing by the city to proceed with such work. Failure to immediately stop work as provided herein shall constitute a violation of this chapter, in accordance with section 30.08.003 (penalty for violations), and may incur penalties for such violation.

(2006 Code, sec. 86-148; Ordinance 04-05-610, sec. 10.8, adopted 5/17/04)

Sec. 30.02.159 Schedule of fees, charges and expenses

(a) Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any zoning or development application or on any appeal.

(b) The city council, upon the recommendation of the planning and zoning commission, shall determine and adopt a fee schedule for the purpose of recovering a portion of the administrative costs associated with processing zoning and development requests, including public hearings, that are called for in this chapter, as set forth in the currently adopted city fee schedule as printed in appendix A to this code, for the city's filing fee schedule. Such fees shall be paid by the applicant and shall not be designed to in any way restrict the applicant's ability to seek and receive a hearing or to generate revenue for other than recovery of actual administrative costs incurred by the city in the review and processing of applications. Immediately upon receipt of a complete submission for a zoning change or other development plan approval, in accordance with section 30.02.153(c), the city manager, or his designee, shall issue a fee receipt and shall create a case file as a permanent city record thereof.

(2006 Code, sec. 86-149; Ordinance 04-05-610, sec. 10.9, adopted 5/17/04)

Secs. 30.02.160–30.02.190 Reserved

Division 6. Building Permits; Certificates of Occupancy and Compliance

Sec. 30.02.191 Building permits required

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the city manager or his designee. A building permit shall not be issued except in conformity with the provisions of this chapter, unless otherwise authorized by the board of adjustment in the form of a variance or special exception as provided in section 30.02.116. A building permit shall not be issued until the property is properly zoned for the intended use, until the property is platted in accordance with chapter 28, regarding subdivisions, and all appropriate plans have been approved by the city, including, but not limited to, a construction or final plat, a detailed plot/tract plan, a final site plan, landscaping and facade and elevation plans, building structural plans, drainage, grading, engineering, etc. (2006 Code, sec. 86-171; Ordinance 04-05-610, sec. 11.1, adopted 5/17/04)

Sec. 30.02.192 Cancellation of building permit

Failure of an applicant or any of his agents, representatives or contractors to erect, construct, reconstruct, alter, use or maintain any building, structure or premises in conformance with the approved plans upon which a building permit was issued, when such failure constitutes a violation of any provision of this chapter, shall render such building permit void, and the city manager, or his designee, is hereby authorized and directed to revoke any such permit by giving written notice to the applicant or his agent or representative, and all work upon such building, structure or premises shall be immediately discontinued until such building, structure or premises shall be brought into conformance with the approved plans and with all applicable provisions of this chapter. (2006 Code, sec. 86-172; Ordinance 04-05-610, sec. 11.2, adopted 5/17/04)

Sec. 30.02.193 Certificate of occupancy

- (a) Required. A certificate of occupancy shall be required for any of the following:
- (1) Occupancy and use of a building hereafter erected or structurally altered;
 - (2) Change in use of an existing building to a use of a different classification; and
 - (3) Change in the use of land to a use of a different classification.
- (b) Issuance; application fee. No such use, or change of use, shall take place until a certificate of occupancy therefor shall have been issued by the city manager or his designee. The application fee for a certificate of occupancy shall be as set forth in the currently adopted city fee schedule as printed in appendix A to this code.
- (c) Records. A record of all certificates of occupancy shall be kept on file in the city manager's office, or his designee's office, and copies shall be furnished upon request to any person in accordance with state laws governing public records.
- (d) Procedure for new or altered buildings. Written application for a certificate of occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the building permit for such building. Said certificate shall be issued after the city manager, or his designee, orders the building or structure inspected and finds no violations of the provisions of this chapter or other regulations which are enforced by the city manager, or his designee. Said certificate shall be issued by the city manager, or his designee, after the erection or alteration of such building or part thereof has been completed in conformity with all applicable provisions of this chapter.
- (e) Procedure for a change in building use. Written application for a certificate of occupancy for the use of or a change in the use of a building, or for a change from a nonconforming use to a conforming use, shall be made to the city manager, or his designee. If the proposed use is found to be in conformity with the provisions of this chapter, the certificate of occupancy shall be issued after the application for same has been made and all required inspections are completed and approved by the city manager or his designee.
- (f) Contents of certificate of occupancy. Every certificate of occupancy shall contain the following:
- (1) Building permit number;
 - (2) The address of the building;
 - (3) The name and address of the owner;
 - (4) A description of that portion of the building for which the certificate is issued;
 - (5) A statement that the described portion of the building has been inspected for compliance with the requirements of the city's building codes for the particular group and division of occupancy;
 - (6) The name of the city manager, or his designee;
 - (7) Uses allowed;
 - (8) Maximum number of persons/occupants; and
 - (9) Issue date of certificate of occupancy.

(g) Posting of certificate of occupancy. The certificate of occupancy for all commercial buildings shall be posted in a conspicuous place on the premises and shall not be removed except by the city manager, or his designee.

(h) Revocation of certificate of occupancy. The city manager, or his designee, may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this chapter whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provision of this chapter or the building code and other codes adopted by the city, and any amendments thereto.

(2006 Code, sec. 86-173; Ordinance 04-05-610, sec. 11.3, adopted 5/17/04)

Sec. 30.02.194 Completion of buildings in progress

Nothing contained herein shall require any change in the plans, construction or designated use of a building, the foundation for which has been completely constructed as of May 27, 2004, and the remaining construction of which shall have been completed within one year following May 27, 2004. In addition, any nonresidential building or structure for which a building permit has been approved by the city not more than one year prior to May 27, 2004, may be constructed according to the terms of that building permit. (2006 Code, sec. 86-174; Ordinance 04-05-610, sec. 11.4, adopted 5/17/04)

Secs. 30.02.195–30.02.220 Reserved

Division 7. Concept Plan and Site Plan Review Processes

Sec. 30.02.221 Purpose

This division establishes a site plan review process for proposed nonresidential, mixed-use and higher density residential developments. The purpose of the review is to ensure efficient and safe land development, harmonious use of land, compliance with the comprehensive plan and other appropriate design standards, safe and efficient vehicular and pedestrian circulation, adequate parking and loading, and adequate water supply, drainage and stormwater management, sanitary facilities, coverage, and other utilities and services. (2006 Code, sec. 86-191; Ordinance 04-05-610, sec. 12.1, adopted 5/17/04)

Sec. 30.02.222 Applicability

(a) Site plan review and approval shall be required for all nonresidential, mixed-use, townhouse, single-family attached, and multifamily residential projects and structures, and for any planned development district or specific use permit, public hearings may also be required, see division 5 of this article, article 30.04, division 2, and appendix A-3 of this chapter. Authorized nonresidential structures within a residential zoning district are subject to the site plan review and approval requirements of this division.

(b) No building permit shall be issued for any of the above developments until a site plan and all other required engineering/construction plans are first approved by the city. No certificate of occupancy shall be issued until all construction and development conforms to the site plan and engineering/construction plans, as approved by the city. The site plan review process shall include up to four steps:

- (1) Pre-application conference;
- (2) Concept plan review (voluntary, except for planned developments or specific use permits);
- (3) Site plan review/approval; and

- (4) Construction of project (after city approval of required site plan and other associated plans, including construction plan and engineering plans).

(2006 Code, sec. 86-192; Ordinance 04-05-610, sec. 12.2, adopted 5/17/04)

Sec. 30.02.223 Exemptions and exceptions

Site plan review shall not be required for single-family residential developments, unless the proposed subdivision will include a private amenity, facility or a golf course. In these instances, site plan submission and approval will be required for the private amenity or facility, or the golf course clubhouse/hospitality area, see section 30.02.224(10). (2006 Code, sec. 86-193; Ordinance 04-05-610, sec. 12.3, adopted 5/17/04)

Sec. 30.02.224 Concept/site plan submission requirements

All required items and/or information for an application for a concept plan or a site plan must be received by the city manager, or his designee, in order for the application to be considered complete (see section 30.02.225 [30.02.226]). Incomplete submissions will not be reviewed until all deficient items and information have been received. An application for concept plan or site plan approval shall be comprised of the following:

- (1) An application form, provided by the city, with notarized signatures of the owner or his designated representative if the applicant is not the owner of the subject property.
- (2) Appropriate filing fee, as set forth in the currently adopted city fee schedule as printed in appendix A to this code.
- (3) Verification that all taxes and assessments on the subject property have been paid (see section 30.02.225).
- (4) Copies of the concept plan or site plan (on a 24-inch by 36-inch sheet, and drawn to a known engineering scale that is large enough to be clearly legible), and other required information, the quantity of which shall be determined by the city manager, or his designee.
- (5) General layout for the required public improvements, such as water, wastewater, grading/storm drainage, streets, water quality, fire lanes and hydrants, screening and landscaping, etc., the quantity of which shall be determined by the city manager, or his designee.
- (6) Reduced copies (11 inches by 17 inches) of the site plan as required by the city manager or his designee.
- (7) Landscaping and irrigation plans, for site plan only, the quantity of which shall be determined by the city manager, or his designee.
- (8) Color building facade or elevation plans, for site plan only, drawn to scale, the quantity of which shall be determined by the city manager, or his designee.
- (9) Any additional information/materials, such as plans, maps, exhibits, legal description of property, information about proposed uses, etc., as deemed necessary by the city manager, or his designee, in order to ensure that the development request is understood.
- (10) If the application is for a single-family subdivision, a construction plat may qualify as a site plan, notwithstanding other information contained herein that may still be deemed as required with the application.

(2006 Code, sec. 86-194; Ordinance 04-05-610, sec. 12.4, adopted 5/17/04)

Sec. 30.02.225 Payment of all indebtedness attributable to subject property

No person who owes delinquent taxes, fees, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the city, and which are directly attributable to a piece of property shall be allowed to submit an application for concept plan or site plan approval until the taxes, fees, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully paid, or until an arrangement satisfactory to the city has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, debts and obligations have been paid. (2006 Code, sec. 86-195; Ordinance 04-05-610, sec. 12.5, adopted 5/17/04)

Sec. 30.02.226 Official submission date and completeness of application

(a) For the purpose of these regulations, the "official submission date" shall be the date when a complete application for approval of a concept plan or site plan which contains all elements and information required by this chapter is submitted to the city manager or his designee. No application shall be deemed officially submitted until the city manager, or designee, determines that the application is complete and a fee receipt is issued by the city. Failure by the city manager, or his designee, to make a determination of incompleteness within ten calendar days following the date on which the application was first received by the city shall result in the application being deemed complete, and the "official submission date" shall become the 11th calendar day following initial receipt of the application by the city.

(b) Concept plan and site plan applications which do not include all required information and materials, as outlined in this division and per other city development review policies which may change from time to time, will be considered incomplete, and shall not be accepted for official submission by the city; therefore, the application shall not be scheduled on a planning and zoning commission agenda until the proper information is provided to city staff.

(2006 Code, sec. 86-196; Ordinance 04-05-610, sec. 12.6, adopted 5/17/04)

Sec. 30.02.227 Supplemental requirements

The city's staff may require other information and data for specific concept plans/site plans. This data may include but is not limited to geologic information, water yields, flood data and/or hydrological studies, environmental information, traffic impact analysis, road capacities, market information, economic data for the proposed development, hours of operation, elevations and perspective drawings, lighting, materials sample board, and similar information. Approval of a concept plan or site plan may establish conditions for construction based upon such information. (2006 Code, sec. 86-197; Ordinance 04-05-610, sec. 12.7, adopted 5/17/04)

Sec. 30.02.228 Principles and standards for concept plan and site plan review and evaluation

(a) The following criteria have been set forth as a guide for evaluating the adequacy of proposed development within the city, and to ensure that all developments are, to the best extent possible, constructed according to the city's codes and ordinances.

(b) The city manager, or his designee, shall review the concept plan or site plan for compliance with all applicable city ordinances and with the comprehensive plan; for harmony with surrounding uses and with long-range plans for the future development of the city; for the promotion of the health, safety, order, efficiency, and economy of the city; and for the maintenance of property values and the general welfare.

(c) Concept plan or site plan review and evaluation by the city manager, or his designee, shall be performed with respect to the following:

- (1) The plan's compliance with all provisions of this chapter and other ordinances of the city.
- (2) The impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.

- (3) The relationship of the development to adjacent uses in terms of harmonious design, facade and elevation treatment, setbacks, building materials, maintenance of property values, and any possible negative impacts.
- (4) The provision of a safe and efficient vehicular and pedestrian circulation system.
- (5) The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.
- (6) The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.
- (7) The coordination of streets so as to arrange a convenient system consistent with the thoroughfare plan of the city, as amended.
- (8) The use of landscaping and screening walls to provide adequate buffers to shield lights, noise, movement, or activities from adjacent properties when necessary, and to complement and integrate the design and location of buildings into the overall site design.
- (9) Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties.
- (10) The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
- (11) Protection and conservation of soils from erosion by wind or water or from excavation or grading.
- (12) Protection and conservation of watercourses and areas that are subject to flooding.
- (13) The adequacy of water, drainage, sewerage facilities, solid waste disposal, and other utilities necessary for essential services to residents and occupants.
- (14) Consistency with the comprehensive plan of the city, as amended.

(2006 Code, sec. 86-198; Ordinance 04-05-610, sec. 12.8, adopted 5/17/04)

Sec. 30.02.229 Approval process and revisions

(a) Pre-application conference. The applicants should avail themselves of the advice and assistance of the city officials, and should consult early and informally with the city manager, the public works director, the city planner, the city building official, the city fire marshal, the city engineer, and other applicable administrative officers before preparing a concept plan, if required, or a site plan in order to save time, money and to avoid potential unnecessary delays. Prior to formal application for approval of any concept plan or site plan, the applicant shall request and attend a pre-application conference with the city manager, or his designee, the city planner, the city building official, the city fire marshal, the city engineer, the public works director, and any other pertinent city officials in order to become familiar with the city's development regulations and the development process. At the pre-application conference, the developer may be represented by his land planner, engineer and/or surveyor.

(b) City staff review. Upon official submission of a complete application for concept plan or site plan approval, the city shall commence technical review of the development proposal by forwarding a copy of the application to development review team members. Development review team members shall review the application and shall ascertain its compliance with these and other applicable city regulations. Following city staff review of the plan and supporting documents, and following discussions with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the applicant shall resubmit

additional copies of the corrected plan to the city manager, or his designee, no later than seven calendar days prior to the planning and zoning commission meeting. Failure to resubmit corrected copies of the plan back to the city no later than seven days before the planning and zoning commission meeting, shall be cause for the city manager, or his designee, to forward the plan application to the commission as it was originally submitted rather than the corrected version. If, upon resubmission of the corrected plan to the city, the city manager, or his designee, determines that the application is still incomplete or not correct, the plan application shall be subject to denial.

(c) Action by the planning and zoning commission and the city council. All concept plan and site plan applications shall be reviewed by the planning and zoning commission, and if in conformance with the provisions of this chapter and all other applicable regulations and codes of the city, they shall then be considered for approval by the city council in conformance with the procedures set out in section 30.02.153 and the following: The city manager, or his designee, shall schedule consideration of the concept plan or site plan on the regular (or special) agenda of the planning and zoning commission within 30 calendar days after a complete submission is received. The planning and zoning commission shall review the concept plan or site plan and shall recommend approval, approval subject to certain conditions, or disapproval of the concept plan or site plan. If the planning and zoning commission recommends approval of the plan, with or without conditions, it will be forwarded to the city council for consideration. If the planning and zoning commission recommends disapproval of a plan application, the commission shall state such disapproval and the reasons therefor. The applicant or property owner may appeal such decision to city council by filing a written notice of appeal in the office of the city manager, or his designee, no later than ten calendar days after the date upon which the commission denied the application. The notice of appeal shall set forth in clear and concise fashion the basis for the appeal. The city council shall consider the appeal at a public meeting no later than 30 calendar days after the date upon which the notice of appeal was filed. The city council may change the decision of the commission only by a three-quarters vote of the full city council. The city council may also, where appropriate, remand the concept plan or site plan application back to the commission for reconsideration if it believes that there is a compelling reason to do so (such as the introduction of significant new facts or testimony, etc.). The city council shall determine final approval or disapproval of all concept plan or site plan applications.

(d) Revisions to the approved site plan.

- (1) Minor revisions/amendment. It is recognized that final architectural and engineering design may necessitate minor changes in the approved site plan. In such cases, the city manager, or his designee, shall have the authority to approve minor modifications to an approved site plan and which shall be submitted as an “amended site plan” which substantially conforms to the previously approved site plan, provided that such modifications do not significantly change traffic circulation, building location on the site, proximity of building to nearby residential areas, increase the size or height of building, or any other conditions specifically attached as part of the city council’s approval of the site plan. Submission materials and requirements for approval of an amended site plan shall be as determined by the city manager or his designee. If the city manager, or his designee, refuses to approve an amended site plan, then the applicant shall resubmit the amended site plan as a “revised site plan” as described in subsection (d)(2) of this section, whereupon the revised site plan shall be scheduled for consideration by the planning and zoning commission and city council.
- (2) Major revisions. In the event of revisions that are more extensive in nature and do not conform to the description for minor amendments above, a “revised site plan” must be resubmitted, reviewed by the city manager, or his designee, and reconsidered by the planning and zoning commission and the city council in accordance with the site plan review and approval procedures set forth in this section.

(2006 Code, sec. 86-199; Ordinance 04-05-610, sec. 12.9, adopted 5/17/04)

Sec. 30.02.230 Lapse of concept plan or site plan approval

The approval of a concept plan or site plan shall be effective for a period of six months beyond the date that the plan was approved by the city council except as provided herein. Upon the expiration of six months following council approval of the plan, the applicant shall have completed a city-required “progress benchmark” as set forth in this section. If this is not accomplished, then the approved concept plan or site plan shall be deemed to have expired and shall become null and void. The series of “progress benchmarks” for a project, pursuant to the provisions of this paragraph, are as follows:

<u>Approved Plan</u>	<u>Next “Progress Benchmark”</u>
Concept Plan	Approval of the final site plan and approval of the construction plat, per chapter 28 (subdivisions), within six months of the concept plan; also, continued active engineering review of the engineering/construction plans, which were required to be submitted along with the construction plat and final site plan.
Site Plan	Engineering release and commencement of construction of public improvements, and application for a building permit for at least one of the buildings on the approved site plan, within six months following approval of the site plan.

(2006 Code, sec. 86-200; Ordinance 04-05-610, sec. 12.10, adopted 5/17/04)

Sec. 30.02.231 Extension and reinstatement procedure

(a) Prior to the lapse of approval for a concept plan or site plan, the applicant may submit a written petition to the city manager, or his designee, to extend the time for plan approval. Such petition shall be considered at a public meeting before the planning and zoning commission and a recommendation forwarded to the city council for action, and then the city council may grant an extension at such meeting. If no petition for extension of concept plan or site plan approval is submitted, then the plan shall be deemed to have expired and shall become null and void. Any new request for concept plan or site plan approval shall be deemed a “new project”; shall be submitted with a new application form, with a new filing fee, and with new plans and materials in accordance with the procedures set forth in this division; and shall be reviewed for compliance with the ordinances and regulations in effect at the time the new application is made.

(b) In determining whether to grant a request for extension, the city council shall take into account the reasons for the lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which development regulations would apply to the concept plan or site plan at that point in time. The city council shall either extend the concept plan or site plan or deny the request, in which instance the originally approved plan shall be deemed null and void. The property owner must thereafter submit a new concept plan or site plan application for approval as a “new project,” and shall conform to the zoning and development regulations then in effect.

(2006 Code, sec. 86-201; Ordinance 04-05-610, sec. 12.11, adopted 5/17/04)

Sec. 30.02.232 Concept plan requirements

(a) Applicability. Submission and approval of a concept plan, if required, can be the first step in the approval process for a development project, either residential or nonresidential, if the applicant prefers to do so. City review and approval of a concept plan has many benefits for both the city and the applicant. The applicant benefits in that he gains preliminary review and scrutiny as well as input and suggestions on the overall conceptual layout of the proposed development from the city’s development review team. Approval of a concept plan may also offer the applicant some level of confidence that subsequent plan submissions will be favorably received and approved with few major changes to the project’s design and layout provided that the project complies with city regulations. For example, once the site plan and construction plat are submitted for a nonresidential project, unforeseen changes in site layout can prove to be expensive in terms of design and engineering costs and time lost due to major plan revisions. The city benefits in that it is allowed to become

familiar with and involved in the project early in the development process. This allows the city to plan for and closely coordinate the provision of public facilities and services, thereby potentially avoiding future problems such as undersized utility lines, inadequate roadway capacities, unanticipated shortfalls in public services, and fiscal inefficiencies resulting from lack of planning and coordination. Submission and approval of a concept plan is mandatory for a zoning request for a planned development or specific use permit. Submission and approval of a concept plan is encouraged, but not required, in the following circumstances:

- (1) In conjunction with a zoning or rezoning request for a property that is intended for development;
- (2) Prior to submission of an application for a site plan and/or construction plat for a property that is intended for development; or
- (3) In conjunction with any project where a road is to be established or realigned.

(b) Purpose. The purpose of a concept plan is to allow opportunity for the planning and zoning commission and city council to preview various development-related aspects of the project, including proposed major thoroughfare and collector street patterns; land use patterns and trends; environmental issues and constraints; building orientation and massing; conformance to the comprehensive plan, this chapter, chapter 28, regarding subdivisions, future land use plan, thoroughfare plan and other applicable plans and guidelines; and the property's relationship to adjoining subdivisions or properties. Review of a concept plan would also assist the city in evaluating the possible impacts of the proposed development in terms of provision of essential public facilities and services, respecting and preserving important natural features and the environment, provision of open space and recreational opportunities, and protecting the general health, safety and welfare of the community.

(c) Extent of area to be included in concept plan. When the overall development project is to be developed in phases, the concept plan area shall include the entire zoned property from which the phases are being developed, as well as an approximate development schedule. Where significant natural or man-made features, such as thoroughfares or creeks, make inclusion of the entire property in the concept plan unnecessary to adequately review the items to be shown on a concept plan, the plan may include a smaller study area. Boundaries such as major thoroughfares (existing or proposed), creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller study area.

(d) Procedures and submission requirements for concept plan approval. Submission of an application for concept plan approval shall be preceded by a pre-application conference with the city; see section 30.02.228(a) [30.02.229(a)]. The concept plan shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals 200 feet and on sheets 24 inches by 36 inches, and it shall show the following:

- (1) A title block within the lower right-hand corner of the concept plan with the proposed name of the project/subdivision, the name and address of the owner/developer and the land planner, engineer, architect or surveyor responsible for the design or survey, the scale of the drawing (both written and graphic scale), the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of the county;
- (2) A vicinity or location map that shows the location of the proposed development within the city, or its extraterritorial jurisdiction, and in relationship to existing roadways;
- (3) The boundary survey limits of the tract and scale distances with north clearly indicated;
- (4) The names of adjacent subdivisions or the name of the owners of record and recording information for adjacent parcels of unplatted land, including parcels on the other sides of roads, creeks, etc. The concept plan shall include a depiction of all contiguous holdings of the property owners, the existing/proposed uses of the subject property, a general arrangement of future land uses, including the approximate number of lot/tracts and any residential uses anticipated, and a generalized circulation plan for the subject property;

- (5) The existing zoning and existing/proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements, including recording information; existing buildings; railroad rights-of-way; topography (contours at five-foot intervals) with existing drainage channels or creeks, including the 100-year floodplain, if applicable; any other important natural features, such as rock outcroppings, caves, wildlife habitats, etc.; all substantial natural vegetation; and adjacent political subdivisions, corporate limits, and/or school district boundaries;
 - (6) Proposed strategies for tree preservation, including showing individual trees or tree masses that will be preserved, and the techniques that will be used to protect them during construction;
 - (7) The layout and width (i.e., right-of-way lines) of existing and proposed thoroughfares, collector streets and/or intersections, and a general configuration of proposed streets, lot/tracts and blocks, including proposed median openings and left turn lanes on future divided roadways and existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings; and
 - (8) A general arrangement of land uses and buildings, including but not limited to proposed nonresidential and residential densities; building heights, square footages, massing, orientation, loading/service areas, recycling containers, compactors and dumpster enclosures, pedestrian walkways, and parking areas; any proposed sites for parks, schools, public facilities, public or private open space; floodplains/ drainageways; and other pertinent development related features.
- (e) Effect of review. The concept plan shall be used only as an aid to show the anticipated layout of the proposed development, and to assess the adequacy of public facilities or services that will be needed to serve the proposed development. Any proposed use or development depicted on the concept plan shall not be deemed formal authorization or approval by the city until a final site plan is approved for the development. If the applicant chooses to construct only the initial phase of a multi-phase project designated in the concept plan, a new concept plan may be required for site plan approval of subsequent phases, if the proposed development layout, character, or other conditions affecting the development substantially change from one phase to the next. The approved concept plan shall be valid for a period of six months from the date of concept plan approval by city council, see section 30.02.229 [30.02.230].

(2006 Code, sec. 86-202; Ordinance 04-05-610, sec. 12.12, adopted 5/17/04)

Sec. 30.02.233 Site plan review

- (a) Applicability and purpose. Submission and city approval of a site plan is required as stated in section 30.02.222. The purpose of final site plan approval is to ensure that a development project is in compliance with all applicable city ordinances and guidelines prior to commencement of construction. Approval of the site plan, construction plat, landscape plan, color building facade and elevation plans, and engineering plans are required prior to site construction.
- (b) Extent of area that should be included in a site plan. When the overall development project is to be developed in phases, the site plan area shall include only the portion of the overall property that is to be developed/constructed.
- (c) Procedures and submission requirements for site plan approval. Submission of an application for site plan approval shall be preceded by a pre-application conference with the city, see section 30.02.229(a). The site plan shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals 100 feet and on sheets 24 inches by 36 inches, and it shall clearly show in detail how the site will be constructed. The site plan shall include, but not be limited to the following:
 - (1) A title block within the lower right-hand corner of the site plan with the proposed name of the project/subdivision, the name and address of the owner/developer and the land planner, engineer,

architect or surveyor responsible for the plan, the scale of the drawing (both written and graphic scale), the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of the county;

- (2) A vicinity or location map that shows the location of the proposed development within the city, or its extraterritorial jurisdiction, and in relationship to existing roadways;
- (3) The boundary survey limits of the tract and each proposed lot/tract and scale distances with north clearly indicated;
- (4) The names of adjacent additions or subdivisions or the name of the owners of record and recording information for adjacent parcels of unplatted land, including parcels on the other sides of roads, creeks, etc.;
- (5) The existing zoning and existing/proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements, with recording information; existing buildings; railroad rights-of-way; topography (contours at two-foot intervals) with existing drainage channels or creeks, including the 100-year floodplain, if applicable; any other important natural features, such as rock outcroppings, caves, wildlife habitats, etc.; and all substantial natural vegetation;
- (6) Proposed strategies for tree preservation including showing individual trees or tree masses that will be preserved, and the techniques that will be used to protect them during construction;
- (7) The layout and width (right-of-way lines and curblines) of existing and proposed thoroughfares, collector streets and/or intersections, and specific configuration of proposed streets, lot/tracts and blocks, proposed driveways including driveway widths and distances between driveways, proposed median openings and left turn lanes on future divided roadways and existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings;
- (8) Specific locations and footprints of buildings, including but not limited to proposed nonresidential and residential densities; building heights, square footages (for multitenant or multipurpose buildings, show square footage for each intended use), massing, orientation, loading/service areas (including proposed screening), recycling containers, compactors and dumpster enclosures (including proposed screening), pedestrian walkways, and parking areas (including parking ratio calculations); any proposed sites for parks, schools, public facilities, public or private open space; floodplains/drainageways; all proposed and existing utilities and easements; drainage structures; retention/detention ponds with proposed aesthetic treatments; screening walls; fences; signage; fire lanes and fire hydrants; lighting; visibility easements; and other pertinent development related features;
- (9) A landscape plan showing turf areas, tree types and sizes, screening walls, ornamental plantings, planting schedule (including species, planted height, spacing, container/caliper size, numbers of each plant material, etc.), any existing wooded areas, trees to be planted, and irrigation plans, if required; and
- (10) Color building facade (elevation) plans showing elevations with any attached (wall-mounted) signage to be used, as determined appropriate by the city manager, or his designee.

Provision of the above items shall conform to the principles and standards of this chapter and the comprehensive plan. To ensure the submission of adequate information, the city is hereby empowered to maintain and distribute a separate list of specific requirements for site plan review applications. Upon periodic review, the city manager, or his designee, shall have the authority to update such requirements for site plan and development review applications. It is the applicant's responsibility to be familiar with, and to comply with, these requirements.

(d) Effect of review. The site plan shall be considered authorization to proceed with construction of the site provided all other required city approvals are obtained, such as construction plat, engineering plans, landscape plan, building facade and elevation plans, building permits, etc. The approved site plan shall be valid for a period of six months from the date of approval by the city council; see section 30.02.229 [30.02.230].

(2006 Code, sec. 86-203; Ordinance 04-05-610, sec. 12.13, adopted 5/17/04)

ARTICLE 30.03 ZONING DISTRICTS

Division 1. Generally

Sec. 30.03.001 Zoning districts established

(a) The city is hereby divided into the following zoning districts. The use, height, area regulations, and other standards, as set out herein apply to each district. The districts established herein shall be known as:

Abbreviated Designation

Zoning District Name

Base Districts

AG	Agricultural
SF-E	Single-Family Estate Residential (minimum 40,000 square foot lot/tracts)
SF-20	Single-Family Residential-20 (minimum 20,000 square foot lot/tracts)
SF-15	Single-Family Residential-15 (minimum 15,000 square foot lot/tracts)
SF-11	Single-Family Residential-11 (minimum 11,000 square foot lot/tracts)
SF-9	Single-Family Residential-9 (minimum 9,000 square foot lot/tracts; allowed as a PD only)
SF-PH	Single-Family Residential-Patio Home (zero-lot/tract-line homes; allowed as a PD only)
SFA	Single-Family Attached Residential (townhomes; allowed as a PD only)
MF-12	Multifamily Residential-12 (apartments)
MH	Manufactured Housing (PD only)
O	Office
NS	Neighborhood Service
TC	Town Center District
R	Retail
TC	Town Center District
LC	Light Commercial
BP	Business Park
P/SP	Public/Semi-Public
PK	Parks/Open Space
PPK	Private Recreation

Overlay Districts

PD	Planned Development
SUP	Specific Use Permit

(b) A summary of the area regulations for the following [sic] zoning districts is included within appendix A-1 to this chapter.

(c) Certain terms and definitions used within this chapter can be found in section 30.01.006.

(2006 Code, sec. 86-231; Ordinance 04-05-610, sec. 13.1, adopted 5/17/04; Ordinance 05-03-645, sec. 2, adopted 3/4/05; Ordinance 12-12-929, sec. 2, adopted 12/11/12)

Secs. 30.03.002–30.03.030 Reserved

Division 2. AG, Agricultural District

Sec. 30.03.031 General purpose and description

The AG, agricultural, district is designed to permit the use of land for the ranching, propagation and cultivation of crops and similar uses of vacant land. Single-family uses on large lot/tracts are also appropriate for this district. Territory that has been newly annexed into the city is initially zoned agricultural until it is rezoned. It is anticipated that agricultural zoned land will eventually be rezoned to another more permanent, suburban zoning classification in the future. The agricultural district is also appropriate for areas where development is premature due to lack of utilities or city services; to preserve areas that are unsuitable for development due to problems that may present hazards such as flooding, in which case the agricultural zoning designation should be retained until such hazards are mitigated and the land is rezoned; and to provide permanent greenbelts or to preserve open space areas as buffers around uses that might otherwise be objectionable or pose environmental or health hazards. (2006 Code, sec. 86-251; Ordinance 04-05-610, sec. 14.1, adopted 5/17/04)

Sec. 30.03.032 Permitted uses

Those uses listed for the AG agricultural district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-252; Ordinance 04-05-610, sec. 14.2, adopted 5/17/04)

Sec. 30.03.033 Height regulations

Maximum height regulations for the agricultural district shall be as follows:

- (1) Three stories, or 45 feet for the main building/house.
- (2) Forty-five feet for agricultural structures (e.g., barns, silos, water towers, etc.), provided they are no closer than 100 feet from any residential structure on the premises, and they are set back at least 100 feet or three times their height (whichever is greater) from any front, side or rear property line.
- (3) Other requirements, see chapter 26, article 26.03.
- (4) Eighteen feet for other accessory buildings, including detached garage, accessory dwelling units, etc.

(2006 Code, sec. 86-253; Ordinance 04-05-610, sec. 14.3, adopted 5/17/04)

Sec. 30.03.034 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the agricultural district shall be as follows:

- (1) Minimum lot/tract area: Five acres.
- (2) Minimum lot/tract width: 115 feet.
- (3) Minimum lot/tract depth: 150 feet.

(b) Size of yards. The size of yards in the agricultural district shall be as follows:

- (1) Minimum front yard: 50 feet.

- (2) Minimum side yard: Ten percent of the lot/tract width, but need not exceed 15 feet; 25 feet from a street right-of-way line for a corner lot/tract; 50 feet from a street right-of-way line for a key corner lot/tract.
- (3) Minimum rear yard: 20 percent of the lot/tract depth for the main building, but need not exceed 50 feet.
- (c) Maximum lot/tract coverage. The maximum lot/tract coverage in the agricultural district shall be 15 percent for main buildings and accessory buildings.
- (d) Parking regulations. Parking regulations for the agricultural district shall be as follows:
 - (1) Single-family dwelling unit: A minimum of two enclosed parking spaces behind the front building line on the same lot/tract as the main structure, plus four additional parking spaces on a paved driveway (all concrete or a similar paved surface such as turf pavers, brick pavers).
 - (2) Other: See article 30.07, division 2 of this chapter, regarding off-street parking and loading regulations.
- (e) Minimum floor area per dwelling unit. The minimum floor area per dwelling unit in the agricultural district shall be 2,400 square feet.
- (f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the agricultural district.

(2006 Code, sec. 86-254; Ordinance 04-05-610, sec. 14.4, adopted 5/17/04)

Sec. 30.03.035 Special requirements

- (a) Recreational vehicles, travel trailers, mobile homes or motor homes. Recreational vehicles, travel trailers, mobile homes or motor homes may not be used for on-site dwelling purposes in the agricultural district.
- (b) Open storage. Open storage is prohibited in the agricultural district, except for materials for the resident's personal use or consumption such as firewood, garden materials, farm equipment, etc., which cannot be stored in any required setback and which must be screened from view of public streets and neighboring properties.
- (c) Setbacks from garages or carports. Single-family homes with side-entry garages in the agricultural district where lot/tract frontage is only to one street (not a corner lot/tract) shall have a minimum of 24 feet from the door face of the garage or carport to the side property line with a paved six-foot hammerhead turnaround provided for on-site maneuvering of vehicles. The minimum setback from any garage door to a street or alley right-of-way line in the agricultural district shall also be 24 feet.
- (d) Enclosure or conversion of garage space. The elimination of a garage space by enclosing or converting any portion of the garage space with a stationary building wall shall be prohibited in the agricultural district unless another garage of the same size is built on the lot/tract within the proper setbacks, not exceeding the maximum lot/tract coverage, etc.
- (e) Swimming pools. For swimming pools in the agricultural district see chapter 24, article 24.07.
- (f) Site plan approval for nonresidential use; service standards. Site plan approval (see article 30.02, division 7 of this chapter) shall be required for any authorized nonresidential use in the AG district. Any nonresidential land use which may be permitted in the agricultural district shall conform to the NS neighborhood service district standards (see article 30.03, division 13 of this chapter) with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(g) Other regulations. Other regulations for the agricultural district shall be established by articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-255; Ordinance 04-05-610, sec. 14.5, adopted 5/17/04; Ordinance 15-06-994, sec. 8, adopted 6/2/15)

Secs. 30.03.036–30.03.060 Reserved

Division 3. SF-E, Single-Family Estate Residential District

Sec. 30.03.061 General purpose and description

The SF-E, single-family estate residential, district is intended to provide for development of primarily very-low-density detached, single-family residences on lot/tracts of not less than 40,000 square feet in size, churches, schools and public parks in logical neighborhood units. Areas zoned for the SF-E district shall have, or shall make provision for, city water and sewer services. Areas zoned for the SF-E district shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts. (2006 Code, sec. 86-271; Ordinance 04-05-610, sec. 15.1, adopted 5/17/04)

Sec. 30.03.062 Permitted uses

Those uses listed for the SF-E district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses (i.e., SUP), respectively. Special uses for the SF-E district must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-272; Ordinance 04-05-610, sec. 15.2, adopted 5/17/04)

Sec. 30.03.063 Height regulations

Maximum height regulations for the SF-E district shall be as follows:

- (1) Two and one-half stories, or 35 feet for the main building/house.
- (2) Thirty-five feet for agricultural structures (e.g., barns, silos, water towers, etc.), provided they are no closer than 50 feet from any residential structure on the premises, and they are set back at least 50 feet or three times their height (whichever is greater) from any front, side or rear property line.
- (3) Eighteen feet for other accessory buildings, including detached garage, garden shed, accessory dwelling units, gazebo, etc.
- (4) Other requirements (see chapter 26, article 26.06).

(2006 Code, sec. 86-273; Ordinance 04-05-610, sec. 15.3, adopted 5/17/04)

Sec. 30.03.064 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the SF-E district shall be as follows:

- (1) Minimum lot/tract area: 40,000 square feet.
- (2) Minimum lot/tract width: 125 feet.
- (3) Minimum lot/tract depth: 150 feet.

- (b) Size of yards. The size of yards in the SF-E district shall be as follows:
- (1) Minimum front yard: 50 feet.
 - (2) Minimum side yard: 12 feet for an interior side yard; 15 feet from a street right-of-way line for a corner lot/tract on a residential or collector street; 20 feet for a corner lot/tract on an arterial street; 50 feet from a street right-of-way line for a key corner lot/tract.
 - (3) Minimum rear yard: 25 feet for the main building.
- (c) Maximum lot/tract coverage. The maximum lot/tract coverage in the SF-E district shall be 40 percent including main buildings and accessory buildings.
- (d) Parking regulations. Parking regulations for the SF-E district shall be as follows:
- (1) Single-family dwelling unit: A minimum of two attached and enclosed parking spaces behind the front building line on the same lot/tract as the main structure, plus two additional parking spaces on a paved driveway (all concrete or a similar paved surface such as turf pavers, brick pavers).
 - (2) Other: See article 30.07, division 2 of this chapter, regarding off-street parking and loading regulations.
- (e) Minimum floor area per dwelling unit. The minimum floor area per dwelling unit in the SF-E district shall be 2,400 square feet.
- (f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards for the SF-E district.

(2006 Code, sec. 86-274; Ordinance 04-05-610, sec. 15.4, adopted 5/17/04)

Sec. 30.03.065 Special requirements

- (a) Recreational vehicles, travel trailers, mobile homes or motor homes. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes in the SF-E district.
- (b) Open storage. Open storage is prohibited in the SF-E district (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).
- (c) Setbacks from garages or carports. Single-family homes with side-entry garages in the SF-E district where lot/tract frontage is only to one street (not a corner lot/tract) shall have a minimum of 24 feet from the door face of the garage or carport to the side property line with a paved six-foot hammerhead turnaround provided for on-site maneuvering of vehicles. The minimum setback from any garage door to a street or alley right-of-way line in the SF-E district shall also be 24 feet (24 feet or build line).
- (d) Enclosure or conversion of garage space. The elimination of a garage space by enclosing or converting any portion of the garage space with a stationary building wall in the SF-E district shall be prohibited unless another garage of the same size is built on the lot/tract within the proper setbacks, not exceeding the maximum lot/tract coverage, etc.
- (e) Swimming pools. For swimming pools in the SF-E district see chapter 24, article 24.07.
- (f) Site plan approval for nonresidential use; service standards. Site plan approval (see article 30.02, division 7 of this chapter) shall be required for any authorized nonresidential use in the SF-E district. Any nonresidential land use which may be permitted in the SF-E district shall conform to the NS neighborhood service district

standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(g) Other regulations. Other regulations for the SF-E district shall be as established by articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-275; Ordinance 04-05-610, sec. 15.5, adopted 5/17/04; Ordinance 15-06-994, sec. 9, adopted 6/2/15)

Secs. 30.03.066–30.03.090 Reserved

Division 4. SF-20, Single-Family Residential-20 District

Sec. 30.03.091 General purpose and description

The SF-20, single-family residential-20, district is intended to provide for development of primarily low-density detached, single-family residences on lot/tracts of not less than 20,000 square feet in size, churches, schools and public parks in logical neighborhood units. Areas zoned for the SF-20 district shall have, or shall make provision for, city water and sewer services. Areas zoned for the SF-20 district shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts. (2006 Code, sec. 86-291; Ordinance 04-05-610, sec. 16.1, adopted 5/17/04)

Sec. 30.03.092 Permitted uses

Those uses listed for the SF-20 district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-292; Ordinance 04-05-610, sec. 16.2, adopted 5/17/04)

Sec. 30.03.093 Height regulations

Maximum height regulations for the SF-20 district shall be as follows:

- (1) Two and one-half stories, or 35 feet for the main building/house.
- (2) One story, or 16 feet for other accessory buildings, including detached garage, garden shed, accessory dwelling units, gazebo, etc.
- (3) Other requirements (see chapter 26, article 26.06).

(2006 Code, sec. 86-293; Ordinance 04-05-610, sec. 16.3, adopted 5/17/04)

Sec. 30.03.094 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the SF-20 district shall be as follows:

- (1) Minimum lot/tract area: 20,000 square feet.
- (2) Minimum lot/tract width: 115 feet.
- (3) Minimum lot/tract depth: 130 feet.

(b) Size of yards. The size of yards in the SF-20 district shall be as follows:

- (1) Minimum front yard: 40 feet.

- (2) Minimum side yard: 11 feet for an interior side yard; 15 feet from a street right-of-way line for a corner lot/tract on a residential or collector street; 20 feet for a corner lot/tract on an arterial street; 40 feet from a street right-of-way line for a key corner lot/tract.
- (3) Minimum rear yard: 25 feet for the main building.
- (c) Maximum lot/tract coverage. The maximum lot/tract coverage in the SF-20 district shall be 35 percent including main buildings and accessory buildings.
- (d) Parking regulations. Parking regulations for the SF-20 district shall be as follows:
 - (1) Single-family dwelling unit: A minimum of two attached and enclosed parking spaces behind the front building line on the same lot/tract as the main structure, plus two additional parking spaces on a paved driveway (all concrete or a similar paved surface such as turf pavers, brick pavers).
 - (2) Other: See article 30.07, division 2 of this chapter regarding off-street parking and for the SF-20 district loading regulations.
- (e) Minimum floor area per dwelling unit. The minimum floor area per dwelling unit in the SF-20 district shall be 2,400 square feet.
- (f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the SF-20 district.

(2006 Code, sec. 86-294; Ordinance 04-05-610, sec. 16.4, adopted 5/17/04)

Sec. 30.03.095 Special requirements

- (a) Recreational vehicles, travel trailers, mobile homes or motor homes. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes in the SF-20 district.
- (b) Open storage. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).
- (c) Setbacks from garages or carports. Single-family homes with side-entry garages in the SF-20 district where lot/tract frontage is only to one street (not a corner lot/tract) shall have a minimum of 24 feet from the door face of the garage or carport to the side property line with a paved six-foot hammerhead turnaround provided for on-site maneuvering of vehicles. The minimum setback from any garage door to a street or alley right-of-way line in the SF-20 district shall also be 24 feet (24 feet or build line).
- (d) Enclosure or conversion of garage space. The elimination of a garage space by enclosing or converting any portion of the garage space with a stationary building wall shall be prohibited in the SF-20 district unless another garage of the same size is built on the lot/tract within the proper setbacks, not exceeding the maximum lot/tract coverage, etc.
- (e) Swimming pools. For swimming pools in the SF-20 district see chapter 24, article 24.07.
- (f) Site plan approval for nonresidential use; service standards. Site plan approval shall be required for any authorized nonresidential use in the SF-20 district. Any nonresidential land use which may be permitted in the SF-20 district shall conform to the NS neighborhood service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(g) Other regulations. Other regulations for the SF-20 district shall be established by articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-295; Ordinance 04-05-610, sec. 16.5, adopted 5/17/04; Ordinance 15-06-994, sec. 10, adopted 6/2/15)

Secs. 30.03.096–30.03.120 Reserved

Division 5. SF-15, Single-Family Residential-15 District

Sec. 30.03.121 General purpose and description

The SF-15, single-family residential-15, district is intended to provide for development of primarily low-density detached, single-family residences on lot/tracts of not less than 15,000 square feet in size, churches, schools and public parks in logical neighborhood units. Areas zoned for the SF-15 district shall have, or shall make provision for, city water and sewer services. Areas zoned for the SF-15 district shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts. (2006 Code, sec. 86-311; Ordinance 04-05-610, sec. 17.1, adopted 5/17/04)

Sec. 30.03.122 Permitted uses

Those uses listed for the SF-15 district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-312; Ordinance 04-05-610, sec. 17.2, adopted 5/17/04)

Sec. 30.03.123 Height regulations

Maximum height regulations for the SF-15 district shall be as follows:

- (1) Two and one-half stories, or 35 feet for the main building/house.
- (2) One story, or 16 feet for other accessory buildings, including detached garage, garden shed, gazebo, etc.
- (3) Other requirements (see chapter 26, article 26.06).

(2006 Code, sec. 86-313; Ordinance 04-05-610, sec. 17.3, adopted 5/17/04; Ordinance 05-03-645, sec. 3, adopted 3/4/05)

Sec. 30.03.124 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the SF-15 district shall be as follows:

- (1) Minimum lot/tract area: 15,000 square feet; also, the minimum average lot/tract area shall be 16,000 square feet in order to provide diversity in lot/tract sizes within each SF-15 neighborhood.
- (2) Minimum lot/tract width: 100 feet.
- (3) Minimum lot/tract depth: 120 feet.

(b) Size of yards. The size of yards in the SF-15 district shall be as follows:

- (1) Minimum front yard: 30 feet.

- (2) Minimum side yard: Ten feet for an interior side yard; 15 feet from a street right-of-way line for a corner lot/tract on a residential or collector street; 20 feet for a corner lot/tract on an arterial street; 30 feet from a street right-of-way line for a key corner lot/tract.
- (3) Minimum rear yard: 20 feet for the main building.
- (c) Maximum lot/tract coverage. The maximum lot/tract coverage in the SF-15 district shall be 35 percent including main buildings and accessory buildings.
- (d) Parking regulations. Parking regulations for the SF-15 district shall be as follows:
 - (1) Single-family dwelling unit: A minimum of two attached and enclosed parking spaces behind the front building line on the same lot/tract as the main structure, plus two additional parking spaces on a paved driveway (all concrete or a similar paved surface such as turf pavers, brick pavers).
 - (2) Other: See article 30.07, division 2 of this chapter regarding off-street parking and loading regulations.
- (e) Minimum floor area per dwelling unit. The minimum floor area per dwelling unit in the SF-15 district shall be 2,200 square feet.
- (f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the SF-15 district.

(2006 Code, sec. 86-314; Ordinance 04-05-610, sec. 17.4, adopted 5/17/04)

Sec. 30.03.125 Special requirements

- (a) Recreational vehicles, travel trailers, mobile homes or motor homes. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes in the SF-15 district.
- (b) Open storage. Open storage is prohibited in the SF-15 district (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).
- (c) Setbacks from garages or carports. Single-family homes with side-entry garages in the SF-15 district where lot/tract frontage is only to one street (not a corner lot/tract) shall have a minimum of 24 feet from the door face of the garage or carport to the side property line with a paved six-foot hammerhead turnaround provided for on-site maneuvering of vehicles. The minimum setback from any garage door to a street or alley right-of-way line in the SF-15 district shall also be 24 feet (24 feet or build line).
- (d) Enclosure or conversion of garage space. The elimination of a garage space by enclosing or converting any portion of the garage space with a stationary building wall shall be prohibited in the SF-15 district unless another garage of the same size is built on the lot/tract within the proper setbacks, not exceeding the maximum lot/tract coverage, etc.
- (e) Swimming pools. For swimming pools in the SF-15 district see chapter 24, article 24.07.
- (f) Site plan approval for nonresidential use; service standards. Site plan approval shall be required for any authorized nonresidential use in the SF-15 district. Any nonresidential land use which may be permitted in the SF-15 district shall conform to the NS neighborhood service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(g) Other regulations. Other regulations for the SF-15 district shall be established by articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-315; Ordinance 04-05-610, sec. 17.5, adopted 5/17/04; Ordinance 15-06-994, sec. 11, adopted 6/2/15)

Secs. 30.03.126–30.03.150 Reserved

Division 6. SF-11, Single-Family Residential-11 District

Sec. 30.03.151 General purpose and description

The SF-11, single-family residential-11, district is intended to provide for development of primarily low-density detached, single-family residences on lot/tracts of not less than 11,000 square feet in size, churches, schools and public parks in logical neighborhood units. Areas zoned for the SF-11 district shall have, or shall make provision for, city water and sewer services. Areas zoned for the SF-11 district shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts. (2006 Code, sec. 86-331; Ordinance 04-05-610, sec. 18.1, adopted 5/17/04)

Sec. 30.03.152 Permitted uses

Those uses listed for the SF-11 district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-332; Ordinance 04-05-610, sec. 18.2, adopted 5/17/04)

Sec. 30.03.153 Height regulations

Maximum height regulations for the SF-11 district shall be as follows:

- (1) Two and one-half stories, or 35 feet for the main building/house.
- (2) One story, or 16 feet for other accessory buildings, including detached garage, garden shed, gazebo, etc.
- (3) Other requirements (see chapter 26, article 26.06).

(2006 Code, sec. 86-333; Ordinance 04-05-610, sec. 18.3, adopted 5/17/04; Ordinance 05-03-645, sec. 4, adopted 3/4/05)

Sec. 30.03.154 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the SF-11 district shall be as follows:

- (1) Minimum lot/tract area: 11,000 square feet; also, the minimum average lot/tract area shall be 12,000 square feet in order to provide diversity in lot/tract sizes within each SF-11 neighborhood.
- (2) Minimum lot/tract width: 90 feet.
- (3) Minimum lot/tract depth: 120 feet.

(b) Size of yards. The size of yards in the SF-11 district shall be as follows:

- (1) Minimum front yard: 25 feet.

- (2) Minimum side yard: Nine feet for an interior side yard; 15 feet from a street right-of-way line for a corner lot/tract on a residential or collector street; 20 feet for a corner lot/tract on an arterial street; 25 feet from a street right-of-way line for a key corner lot/tract.
- (3) Minimum rear yard: 20 feet for the main building.
- (c) Maximum lot/tract coverage. The maximum lot/tract coverage in the SF-11 district shall be 35 percent including main buildings and accessory buildings.
- (d) Parking regulations. Parking regulations for the SF-11 district shall be as follows:
 - (1) Single-family dwelling unit: A minimum of two attached and enclosed parking spaces behind the front building line on the same lot/tract as the main structure, plus two additional parking spaces on a paved driveway (all concrete or a similar paved surface such as turf pavers, brick pavers).
 - (2) Other: See article 30.07, division 2 of this chapter regarding off-street parking and loading regulations.
- (e) Minimum floor area per dwelling unit. The minimum floor area per dwelling unit in the SF-11 district shall be 2,200 square feet.
- (f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the SF-11 district.

(2006 Code, sec. 86-334; Ordinance 04-05-610, sec. 18.4, adopted 5/17/04)

Sec. 30.03.155 Special requirements

- (a) Recreational vehicles, travel trailers, mobile homes or motor homes. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes in the SF-11 district.
- (b) Open storage. Open storage is prohibited in the SF-11 district (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).
- (c) Setbacks from garages or carports. Single-family homes with side-entry garages in the SF-11 district where lot/tract frontage is only to one street (not a corner lot/tract) shall have a minimum of 24 feet from the door face of the garage or carport to the side property line with a paved six-foot hammerhead turnaround provided for on-site maneuvering of vehicles. The minimum setback from any garage door to a street or alley right-of-way line in the SF-11 district shall also be 24 feet.
- (d) Enclosure or conversion of garage space. The elimination of a garage space by enclosing or converting any portion of the garage space with a stationary building wall shall be prohibited in the SF-11 district unless another garage of the same size is built on the lot/tract within the proper setbacks, not exceeding the maximum lot/tract coverage, etc.
- (e) Swimming pools. For swimming pools in the SF-11 district see chapter 24, article 24.07.
- (f) Site plan approval for nonresidential use; service standards. Site plan approval shall be required for any authorized nonresidential use in the SF-11 district. Any nonresidential land use which may be permitted in this district shall conform to the NS neighborhood service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(g) Other regulations. Other regulations for the SF-11 district shall be established by articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-335; Ordinance 04-05-610, sec. 18.5, adopted 5/17/04; Ordinance 15-06-994, sec. 12, adopted 6/2/15)

Secs. 30.03.156–30.03.180 Reserved

Division 7. SF-9, Single-Family Residential-9 District (PD Only)

Sec. 30.03.181 General purpose and description

The SF-9, single-family residential-9, district is intended to provide for planned residential development of primarily detached, single-family residences on smaller and more compact lot/tracts of not less than 9,000 square feet in size, churches, schools and public parks in logical neighborhood units (allowed as a planned development only, no stand-alone SF-9 zoning districts shall be allowed). Areas zoned for the SF-9 district shall have, or shall make provision for, city water and sewer services. Areas zoned for the SF-9 district shall be designed to adequately accommodate storm drainage; they shall be [have] paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts. (2006 Code, sec. 86-351; Ordinance 04-05-610, sec. 19.1, adopted 5/17/04)

Sec. 30.03.182 Permitted uses

Those uses listed for the SF-9 district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-352; Ordinance 04-05-610, sec. 19.2, adopted 5/17/04)

Sec. 30.03.183 Height regulations

Maximum height regulations for the SF-9 district shall be as follows:

- (1) Two and one-half stories, or 35 feet for the main building/house.
- (2) One story, or 16 feet for other accessory buildings, including detached garage, garden shed, gazebo, etc.
- (3) Other requirements (see chapter 26, article 26.06).

(2006 Code, sec. 86-353; Ordinance 04-05-610, sec. 19.3, adopted 5/17/04; Ordinance 05-03-645, sec. 5, adopted 3/4/05)

Sec. 30.03.184 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the SF-9 district shall be as follows:

- (1) Minimum lot/tract area: 9,000 square feet; the minimum average lot/tract area shall be 10,500 square feet in order to provide diversity in lot/tract sizes within each SF-9 neighborhood.
- (2) Minimum lot/tract width: 75 feet.
- (3) Minimum lot/tract depth: 120 feet.

(b) Size of yards. The size of yards in the SF-9 district shall be as follows:

- (1) Minimum front yard: 25 feet.

- (2) Minimum side yard: Eight feet for an interior side yard; 15 feet from a street right-of-way line for a corner lot/tract on a residential or collector street; 20 feet for a corner lot/tract on an arterial street; 25 feet from a street right-of-way line for a key corner lot/tract.
- (3) Minimum rear yard: 20 feet for the main building.
- (c) Maximum lot/tract coverage. The maximum lot/tract coverage in the SF-9 district shall be 35 percent including main buildings and accessory buildings.
- (d) Parking regulations. Parking regulations for the SF-9 district shall be as follows:
 - (1) Single-family dwelling unit: A minimum of two attached and enclosed parking spaces behind the front building line on the same lot/tract as the main structure, plus two additional parking spaces on a paved driveway (all concrete or a similar paved surface such as turf pavers, brick pavers).
 - (2) Other: See article 30.07, division 2 of this chapter regarding off-street parking and loading regulations.
- (e) Minimum floor area per dwelling unit. The minimum floor area per dwelling unit in the SF-9 district shall be 2,000 square feet.
- (f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards.

(2006 Code, sec. 86-354; Ordinance 04-05-610, sec. 19.4, adopted 5/17/04)

Sec. 30.03.185 Special requirements

- (a) Recreational vehicles, travel trailers, mobile homes or motor homes. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes in the SF-9 district.
- (b) Open storage. Open storage is prohibited in the SF-9 district (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).
- (c) Setbacks from garages or carports. Single-family homes with side-entry garages in the SF-9 district where lot/tract frontage is only to one street (not a corner lot/tract) shall have a minimum of 24 feet from the door face of the garage or carport to the side property line with a paved six-foot hammerhead turnaround provided for on-site maneuvering of vehicles. The minimum setback from any garage door to a street or alley right-of-way line in the SF-9 district shall also be 24 feet.
- (d) Enclosure or conversion of garage space. The elimination of a garage space by enclosing or converting any portion of the garage space with a stationary building wall shall be prohibited in the SF-9 district unless another garage of the same size is built on the lot/tract within the proper setbacks, not exceeding the maximum lot/tract coverage, etc.
- (e) Swimming pools. For swimming pools in the SF-9 district see chapter 24, article 24.07.
- (f) Site plan approval for nonresidential use; service standards. Site plan approval shall be required for any authorized nonresidential use in the SF-9 district. Any nonresidential land use which may be permitted in the SF-9 district shall conform to the NS neighborhood service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(g) Other regulations. Other regulations for the SF-9 district shall be established by articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-355; Ordinance 04-05-610, sec. 19.5, adopted 5/17/04; Ordinance 15-06-994, sec. 13, adopted 6/2/15)

Secs. 30.03.186–30.03.210 Reserved

Division 8. SF-PH, Single-Family Residential-Patio Home District (Zero-Lot/Tract-Line Homes)

Sec. 30.03.211 General purpose and description

The SF-PH, single-family residential-patio home, district is designed to provide for development of primarily detached single-family residences on compact lot/tracts having one side yard reduced to zero feet (“zero-lot/tract-line”), and having not less than 5,000 square feet. Patio home developments shall be arranged in a clustered lot/tract pattern with a common usable open space system that is an integral part of the development. Areas zoned for the SF-PH district shall have, or shall make provision for, city water and sewer services. Areas zoned for the SF-PH district shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts. (2006 Code, sec. 86-371; Ordinance 04-05-610, sec. 21.1, adopted 5/17/04)

Sec. 30.03.212 Permitted uses

Those uses listed for the SF-PH district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-372; Ordinance 04-05-610, sec. 21.2, adopted 5/17/04)

Sec. 30.03.213 Height regulations

Maximum height regulations for the SF-PH district shall be as follows:

- (1) Two and one-half stories, or 35 feet for the main building/house.
- (2) One story, or 16 feet for other accessory buildings, including detached garage, garden shed, gazebo, etc.
- (3) Other requirements (see chapter 26, article 26.06).

(2006 Code, sec. 86-373; Ordinance 04-05-610, sec. 21.3, adopted 5/17/04; Ordinance 05-03-645, sec. 6, adopted 3/4/05)

Sec. 30.03.214 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the SF-PH district shall be as follows:

- (1) Minimum lot/tract area: 5,000 square feet; also, the minimum average lot/tract area shall be 7,000 square feet in order to provide diversity in lot/tract sizes within each SF-PH neighborhood.
- (2) Maximum project size: The maximum size of a patio home development shall be eight acres.
- (3) Minimum lot/tract width: 50 feet.
- (4) Minimum lot/tract depth: 100 feet.

- (b) Size of yards. The size of yards in the SF-PH district shall be as follows:
- (1) Minimum front yard: 25 feet.
 - (2) Minimum side yard: One side yard reduced to zero feet; other side yard a minimum of ten feet required; 15 feet from a street right-of-way line for a corner lot/tract on a residential or collector street; 20 feet for a corner lot/tract on an arterial street; 25 feet from a street right-of-way line for a key corner lot/tract, no front-entry garages permitted.
 - (3) Minimum rear yard: 20 feet for the main building; 24 feet for rear garage entry.
- (c) Maximum lot/tract coverage. The maximum lot/tract coverage in the SF-PH district shall be 50 percent by main buildings and accessory buildings.
- (d) Parking regulations. Parking regulations for the SF-PH district shall be as follows:
- (1) Single-family dwelling unit: A minimum of two enclosed parking spaces behind the front building line on the same lot/tract as the main structure, plus two additional parking spaces on a paved driveway (all concrete or a similar paved surface such as turf pavers, brick pavers).
 - (2) Visitor parking: One-half parking space per dwelling unit (off-street) which is located within 600 feet of the dwelling unit.
 - (3) Driveways and parking areas: All driveways and parking areas shall be concrete or a similar paved surface such as turf pavers, brick pavers.
 - (4) Other: See article 30.07, division 2 of this chapter regarding off-street parking and loading requirements.
- (e) Minimum floor area per dwelling unit. The minimum floor area per dwelling unit in the SF-PH district shall be 1,800 square feet.
- (f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the SF-PH district.

(2006 Code, sec. 86-374; Ordinance 04-05-610, sec. 21.4, adopted 5/17/04)

Sec. 30.03.215 Special requirements

- (a) Generally. Patio home developments shall be developed as zero-lot/tract-line homes. One side yard shall be reduced to zero feet, while the other side yard shall be a minimum of ten feet, 15 feet for a corner lot/tract on the residential or collector street side, or 20 feet for a corner lot/tract on an arterial street; a key corner lot/tract shall observe the front yard setback. A minimum six-foot-wide maintenance easement shall be placed on the adjacent lot/tract (on the other side of the zero-lot/tract-line) to enable the property owner to maintain that portion of his house which is on the zero-lot/tract-line. Side yards and maintenance easements shall be shown on the subdivision plat. A minimum separation between patio homes of ten feet shall be provided. Roof overhangs will be allowed to project into the maintenance easement a maximum of 24 inches.
- (b) Maintenance requirements for common areas. A property owners' association is required for continued maintenance of common land and facilities (see section 28.04.003 for property owners'/homeowners' association requirements).
- (c) Usable open space requirements. Except as provided below, any patio home subdivision shall provide usable open space which equals or exceeds ten percent of the gross platted area, excluding rights-of-way for collector and larger sized streets. Usable open space shall not be required for a patio home development if it contains 20 or fewer lot/tracts, and if the property contiguous to the subdivision is either developed for uses other

than patio homes or is restricted by zoning to not permit patio home development. Properties that are separated by thoroughfares larger than a collector street and/or by drainage/utility easements in excess of 60 feet in width shall not be considered as contiguous.

(d) Specific criteria for usable open space. Areas provided as usable open space in the SF-PH district shall meet the following criteria:

- (1) All residential lot/tracts must be located within 600 feet of a usable open space area as measured along a street. The planning and zoning commission may recommend, and city council may allow, this distance to be increased to up to 1,200 feet if the shape of the subdivision is irregular or if existing trees or other natural features on the site can be preserved by increasing the distance.
- (2) Individual usable open space areas shall be at least 20,000 square feet in size. Usable open space must be a minimum of 50 feet wide, and must have no slope greater than ten percent. At the time of site plan and subdivision plat approval, the planning and zoning commission may recommend, and the city council may allow, full or partial credit for open areas that exceed the ten percent maximum slope if it is determined that such areas are environmentally or aesthetically significant and that their existence enhances the development and the surrounding area.
- (3) Pools, tennis courts, walkways, patios and similar outdoor amenities may be located within areas designated as usable open space. Areas occupied by enclosed buildings (except for gazebos and pavilions), driveways, parking lot/tracts, overhead electrical transmission lines, drainage, channels and antennas may not be included in calculating usable open space.
- (4) Within usable open space areas, there shall be at least one large shade tree for every 1,000 square feet of space. New trees planted to meet this requirement shall be a minimum three-inch caliper, and at least 25 percent of the trees shall be nondeciduous (for qualifying tree species, see section 26.08.002 for the city's approved plant list).
- (5) A usable open space area must have street frontage on at least 33 percent of the area's perimeter to ensure that the area is accessible to residents of the subdivision.
- (6) Usable open space areas must be easily viewed from adjacent streets and homes. Side or rear yard fences along common open space areas shall be of open, wrought iron design, and shall not exceed four feet in height adjacent to the open space and for a distance of ten feet perpendicular or radial to the open space area.

(e) Credit for off-site open space. At the time of site plan and subdivision plat approval, the planning and zoning commission may recommend, and the city council may allow, up to one-third of the required open space to be credited for off-site dedicated open space (e.g., parkland) that meets the development's needs in terms of adjacency, accessibility, usability, and design integration. The granting of any off-site credit for open space is a discretionary power of the city council. The guidelines below may assist in considering if credit is appropriate:

- (1) Adjacency. Is at least 15 percent of the patio home development's boundary adjacent to park land?
- (2) Accessibility. Are there defined pedestrian connections between the development and the park land?
- (3) Usability. Is the park land immediately adjacent to the development suitable for use and accessible by residents?
- (4) Design integration. Does the design of the development provide a significant visual and pedestrian connection to the park or other open space land?

(f) Landscaped areas. Additional common open space and landscaped areas that do not qualify as usable open space may be provided in the SF-PH district, but shall not be counted toward the usable open space requirement.

- (g) Construction standards. Single-family lot/tracts and detached dwellings constructed in the SF-PH district shall conform to the standards as set forth in the SF-9 zoning district.
- (h) Enclosure or conversion of garage space. The elimination of a garage space by enclosing or converting any portion of the garage space with a stationary building wall shall be prohibited in the SF-PH district unless another garage of the same size is built on the lot/tract within the proper setbacks, not exceeding the maximum lot/tract coverage, etc.
- (i) Use of recreational vehicles, travel trailers or motor homes. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes in the SF-PH district.
- (j) Open storage. Open storage is prohibited in the SF-PH district (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).
- (k) Garage setback. Single-family homes with side-entry garages in the SF-PH district where lot/tract frontage is only to one street (not a corner lot/tract) shall have a minimum of 24 feet from the door face of the garage or carport to the side property line with a paved six-foot hammerhead turnaround provided for on-site maneuvering of vehicles. The minimum setback from any garage door to a street or alley right-of-way line shall also be 24 feet.
- (l) Swimming pools. For swimming pools in the SF-PH district see chapter 24, article 24.07.
- (m) Site plan approval for nonresidential uses. Site plan approval shall be required for any authorized nonresidential use in the SF-PH district. Any nonresidential land use which may be permitted in the SF-PH district shall conform to the NS neighborhood service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.
- (n) Other regulations. Other regulations for the SF-PH district shall be established by articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-375; Ordinance 04-05-610, sec. 21.5, adopted 5/17/04; Ordinance 15-06-994, sec. 14, adopted 6/2/15)

Secs. 30.03.216–30.03.250 Reserved

Division 9. SFA, Single-Family Attached Residential District (Duplexes/Townhomes)

Sec. 30.03.251 General purpose and description

The SFA, single-family attached residential, district is intended to promote stable, quality, attached-occupancy residential development on individual lot/tracts at higher residential densities. Individual ownership of each lot/tract and dwelling unit is encouraged in the SFA district. The SFA district may be included within certain areas of neighborhoods or, when in accordance with the intent of the comprehensive plan, may provide a "buffer" or transition district between lower density residential areas and multifamily or nonresidential areas or major thoroughfares. Areas zoned for the SFA district shall have, or shall make provision for, city water and sewer services. Areas zoned for the SFA district shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts. (2006 Code, sec. 86-391; Ordinance 04-05-610, sec. 23.1, adopted 5/17/04)

Sec. 30.03.252 Permitted uses

Those uses listed for the SFA district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-392; Ordinance 04-05-610, sec. 23.2, adopted 5/17/04)

Sec. 30.03.253 Height regulations

Maximum height regulations for the SFA district shall be as follows:

- (1) Two and one-half stories, or 35 feet for the main building/house; where a structure exceeds 25 feet in height, it shall be set back from the front property line one additional foot beyond the required front yard setback for each foot above 25 feet in height.
- (2) One story, or 16 feet for other accessory buildings, including detached garage, garden shed, gazebo, etc.
- (3) Other requirements (see chapter 26, article 26.06).

(2006 Code, sec. 86-393; Ordinance 04-05-610, sec. 23.3, adopted 5/17/04; Ordinance 05-03-645, sec. 7, adopted 3/4/05)

Sec. 30.03.254 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the SFA district shall be as follows:

- (1) Minimum lot/tract area: 6,000 square feet.
- (2) Maximum density: Eight units per gross acre of land area within the development.
- (3) Minimum project size: The minimum size of a single-family attached residential development shall be five acres.
- (4) Maximum project size: The maximum size of a single-family attached residential development shall be 20 acres.
- (5) Minimum lot/tract width: 40 feet.
- (6) Minimum lot/tract depth: 100 feet.

(b) Size of yards. The size of yards in the SFA district shall be as follows:

- (1) Minimum front yard: 15 feet; front yard setback shall be staggered in at least five-foot increments such that no more than two units have the same front setback in a row, and such that at least 30 percent of the lot/tracts along any block face are set back at least 25 feet, at least 30 percent of the lot/tracts are set back at least 20 feet, and no more than 40 percent of the lot/tracts use the minimum 15-foot front setback; no front-entry garages permitted.
- (2) Minimum side yard:
 - (A) Single-family attached dwellings shall not have an interior side yard; however, a minimum 15-foot side yard is required for a key corner lot/tract or a corner lot/tract adjacent to a residential or collector street, and a minimum 20-foot side yard is required for a corner lot/tract adjacent to an arterial street. The ends of any two adjacent building complexes or rows of buildings shall be at least 20 feet apart. The required side yards shall be designated upon a construction plat approved by the city council.

- (B) A complex or continuous row of attached single-family dwellings shall have a minimum length of three dwelling units (triplex), a maximum length of eight dwelling units, and shall not exceed 280 feet in length.
- (3) Minimum rear yard: 15 feet for the main building; 24 feet for rear garage entry (to the face of the garage doors).
- (c) Maximum lot/tract coverage. The maximum lot/tract coverage in the SFA district shall be 50 percent by main and accessory buildings on each individual lot/tract.
- (d) Parking regulations. Parking regulations for the SFA district shall be as follows:
 - (1) A minimum of two enclosed parking spaces for each dwelling unit, located behind, beside or incorporated into the dwelling unit, and accessed only from the rear via an alley, and located on the same lot/tract as each dwelling unit (see article 30.07, division 2 of this chapter regarding off-street parking and loading requirements).
 - (2) Designated visitor parking spaces shall be provided in off-street, common areas at a ratio of one guest/visitor space per four units.
 - (3) Additional parking shall be required for any recreational uses, clubhouse, office, sales offices and other similar accessory structures and uses.
 - (4) All driveways and parking areas shall be concrete or a similar paved surface such as turf pavers, brick pavers.
- (e) Minimum floor area per dwelling unit. The minimum floor area per dwelling unit in the SFA district shall be 1,400 square feet.
- (f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the SFA district.

(2006 Code, sec. 86-394; Ordinance 04-05-610, sec. 23.4, adopted 5/17/04)

Sec. 30.03.255 Special requirements

- (a) Usable open space requirements. Except as provided below, any single-family attached subdivision in the SFA district shall provide usable open space which equals or exceeds 20 percent of the gross platted area, excluding rights-of-way for collector and larger sized streets. Usable open space shall not be required for a single-family attached development if it contains 20 or fewer lot/tracts, and if the property contiguous to the subdivision is either developed for use other than single-family attached homes or is restricted by zoning to not permit single-family attached development. Properties that are separated by thoroughfares larger than a collector street and/or by drainage/utility easements in excess of 60 feet in width shall not be considered as contiguous. Usable open space areas shall be in conformance with section 30.03.215(d) and (e).
- (b) Maintenance requirements for common areas. A property owners' association is required for continued maintenance of common land and facilities in the SFA district (see section 28.04.003 for property owners'/homeowners' association requirements).
- (c) Alleys. Each attached dwelling unit within the SFA district shall be rear-entry only from an alley that is constructed along with the rest of the subdivision (i.e., at the same time as the streets, utilities, etc.) and that is in conformance with the city's design standards for alleys (see section 28.03.002).

(d) Refuse facilities. Every single-family attached dwelling unit in the SFA district shall be located within 150 feet of a refuse facility, measured along the designated pedestrian and vehicular travelway. A refuse facility shall be a dumpster or other similar container designed for receiving garbage in bulk for more than one dwelling, and all refuse containers shall be maintained in accordance with local public health and sanitary regulations. Refuse containers shall be located no closer than 30 feet to any adjacent single-family property, shall be located so as to provide safe and convenient pickup by refuse collection agencies, and shall be screened in accordance with chapter 26, article 26.03. (See illustration 11 for refuse container enclosure diagrams, printed at the end of this chapter.)

(e) Metering of utilities. All utilities shall be provided separately to each lot/tract within an SFA district so that each unit is individually metered.

(f) Swimming pools. A swimming pool in the SFA district shall be provided in single-family attached developments of 50 or more units. See chapter 24, article 24.07 for additional requirements for swimming pools.

(g) Construction standards. Single-family detached dwellings (and their respective lot/tracts) constructed within the SFA district shall conform to the standards as set forth in the SF-11 district.

(h) Yards. Each SFA lot/tract shall contain a private yard with not less than 400 square feet of area (i.e., a back yard or large side yard). Private yards may include a patio cover, gazebo or other similar non-enclosed structure, which does not cover more than 25 percent of the area of the private yard, and they may also include a swimming pool, swing set, play fort, or other private leisure amenity.

(i) Enclosure or conversion of garage space. The elimination of a garage space by enclosing or converting any portion of the garage space with a stationary building wall in the SFA district shall be prohibited unless another garage of the same size is built on the lot/tract within the proper setbacks, not exceeding the maximum lot/tract coverage, etc.

(j) Use of recreational vehicles, travel trailers or motor homes. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.

(k) Open storage. Open storage is prohibited in the SFA district, except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties.

(l) Garage setback. Single-family and two-family homes with side-entry garages in the SFA district where lot/tract frontage is only to one street (not a corner lot/tract) shall have a minimum of 24 feet from the door face of the garage or carport to the side property line with a paved six-foot hammerhead turnaround provided for on-site maneuvering of vehicles. The minimum setback from any garage door to a property line or alley right-of-way line shall also be 24 feet.

(m) Construction standards. Site plan approval shall be required for any authorized single-family attached or nonresidential use in the SFA district. Any nonresidential land use, which may be permitted in this district, shall conform to the NS neighborhood service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(n) Other regulations. Other regulations for the SFA district shall be established by articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-395; Ordinance 04-05-610, sec. 23.5, adopted 5/17/04; Ordinance 15-06-994, sec. 15, adopted 6/2/15)

Secs. 30.03.256–30.03.280

Reserved

Division 10. MF-12, Multifamily Residential-12 District (Apartments)***Sec. 30.03.281 General purpose and description**

The MF-12, multifamily residential-12, district is an attached residential district intended to provide the highest residential density of 12 dwelling units per acre. The principal permitted land uses in the MF-12 district will include low-rise and mid-rise multiple-family dwellings and garden apartments. Recreational, religious, health and educational uses normally located to service residential areas are also permitted in the MF-12 district. The MF-12 district should be located adjacent to a major thoroughfare and serve as a buffer between nonresidential development or heavy automobile traffic and medium-density or low-density residential development. Areas zoned for the MF-12 district shall have, or shall make provision for, city water and sewer services. Areas zoned for the MF-12 district shall be designed to adequately accommodate storm drainage; they shall have paved concrete drive aisles with logical and efficient vehicular circulation patterns; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts. (2006 Code, sec. 86-411; Ordinance 04-05-610, sec. 24.1, adopted 5/17/04)

Sec. 30.03.282 Permitted uses

Those uses listed for the MF-12 district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-412; Ordinance 04-05-610, sec. 24.2, adopted 5/17/04)

Sec. 30.03.283 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the MF-12 district shall be as follows:

- (1) Minimum lot/tract area: 3,500 square feet per dwelling unit, not to exceed 12 dwelling units per acre (calculated on gross acreage). The minimum lot/tract or project size shall be 30,000 square feet; the maximum lot/tract or project size shall be ten acres.
- (2) Minimum lot/tract width: 125 feet.
- (3) Minimum lot/tract depth: 200 feet.

(b) Minimum floor area per dwelling unit. The minimum floor area per dwelling unit in the MF-12 district shall be as follows:

- (1) One-bedroom unit: 950 square feet per unit.
- (2) Two- or more bedroom unit: 1,075 square feet for the first two bedrooms, plus an additional 175 square feet for every bedroom over two.

(c) Maximum lot/tract coverage. The maximum lot/tract coverage in the MF-12 district shall be 50 percent total, including main and accessory buildings.

(d) Parking regulations. Parking regulations for the MF-12 district shall be as follows:

- (1) One and one-half spaces for each efficiency or one-bedroom unit.
- (2) Two spaces for each two-bedroom unit.

* **Editor's note**—Former section 86-413 of the 2006 Code, pertaining to height regulations and deriving from the 2006 Code, section 86-413; Ordinance 04-05-610, sec. 24.3, adopted 5/17/04; and Ordinance 05-03-645, sec. 8, adopted 3/4/05 was repealed in its entirety by section 17(a) of Ordinance 15-06-994 adopted June 2, 2015.

- (3) Two and one-half spaces for each three-bedroom unit.
- (4) Three spaces for each four- or more-bedroom unit.
- (5) No parking space may be located closer than six feet from any building, or closer than two feet from any side or rear lot/tract line.
- (6) All parking areas adjacent to public streets shall be screened from view. Screening may be in the form of live plant materials, berms or low masonry walls that match the exterior finish of main buildings, or any combination of the above.
- (7) All driveway and parking areas shall be concrete or a similar paved surface such as turf pavers, brick pavers.
- (8) See article 30.07, division 2 of this chapter regarding off-street parking and loading requirements, for additional requirements.

(e) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the MF-12 district.

(2006 Code, sec. 86-414; Ordinance 04-05-610, sec. 24.4, adopted 5/17/04; Ordinance 15-06-994, sec. 17(b)–(d), adopted 6/2/15)

Sec. 30.03.284 Special requirements

(a) Usable open space requirements. Except as provided below and by other regulations of the City, usable open space areas in the MF-12 district shall be in conformance with section 30.03.215(d) and (e)[.]

(b) Refuse facilities. Every multifamily dwelling unit in the MF-12 district shall be located within 150 feet of a refuse facility, measured along the designated pedestrian travelway. A refuse facility in the MF-12 district shall be a dumpster or other similar container designed for receiving garbage in bulk for more than one dwelling, and all refuse containers shall be maintained in accordance with local public health and sanitary regulations. Refuse containers in the MF-12 district shall be located no closer than 30 feet to any adjacent single-family property, shall be located so as to provide safe and convenient pickup by refuse collection agencies, and shall be screened in accordance with chapter 26, article 26.03. (See illustration 11 for refuse container enclosure diagrams, printed at the end of this chapter.)

(c) Screening requirements. See chapter 26, article 26.03 for screening requirements in the MF-12 district.

(d) Construction standards. Single-family, duplex, patio home, or townhouse residential units constructed in the MF-12 district shall conform to SF-11, SF-PH or SFA district standards, respectively.

(e) Use of recreational vehicles, travel trailers or motor homes. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes in the MF-12 district.

(f) Open storage. Open storage is prohibited in the MF-12 district.

(g) Proximity to fire lane easement. All points on the exterior facades of all buildings in the MF-12 district shall be within 150 feet of a dedicated fire lane easement as measured by an unobstructed pathway, or route, for fire hoses, per the city's fire code.

(h) Walkways and sidewalks. A four-foot-wide paved walkway shall connect the front door of each ground floor unit to a parking area in the MF-12 district. The minimum width of any sidewalk adjacent to head-in parking spaces in the MF-12 district shall be six feet to accommodate a two-foot bumper overhang for vehicles.

(i) Length restriction. Buildings in the MF-12 district shall not exceed 200 feet in length.

(j) Parking areas for boats, campers, trailers and other recreational vehicles. Boats, campers, trailers and other recreational vehicles in the MF-12 district shall be prohibited unless oversize parking areas are provided as part of the approved site plan. This parking area shall not be used to meet the minimum parking requirements, shall not be visible from a public street and shall be screened by a eight-foot fence board on board.

(k) Address and building numbering signage. All buildings containing residential units in the MF-12 district shall provide signage which clearly identifies the address or building numbers of the units within each building. Signage in the MF-12 district shall be visible from entrances into the complex and/or from vehicular drive aisles within the complex such that each individual unit is easy to locate by visitors, delivery persons, and/or emergency personnel.

(l) Lighting of parking areas. All parking areas in the MF-12 district shall have appropriate lighting and shall be positioned such that no light adversely impacts adjacent residential areas and follows the dark sky regulations.

(m) Nonresidential uses. Site plan approval shall be required for any authorized multifamily or nonresidential use in the MF-12 district. Any nonresidential land use which may be permitted in the MF-12 district shall conform to the NS neighborhood service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(n) Other regulations. Other regulations shall be established for the MF-12 district by articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-415; Ordinance 04-05-610, sec. 24.5, adopted 5/17/04; Ordinance 15-06-994, sec. 17(e)–(h), adopted 6/2/15)

Secs. 30.03.285–30.03.310 Reserved

Division 11. MH, Manufactured Housing District (PD Only)

Sec. 30.03.311 General purpose and description

The MH, manufactured housing, district is a detached residential district establishing standards for the location of HUD-code manufactured and mobile home[s] (“manufactured housing”) in developments specifically designated for manufactured housing parks and subdivisions which shall be allowed as a planned development only; no stand-alone MH zoning districts shall be allowed. Manufactured housing subdivisions include individually platted lot/tracts for sale within the subdivision, for the placement of manufactured housing units. A manufactured housing park offers spaces for the placement of manufactured housing units on a lease or rental basis. The manufactured housing district establishes area and design requirements for parks and subdivisions, as well as yard requirements for individual lot/tracts. Both parks and subdivisions provide open space and recreational areas appropriate for the acreage and number of units contained. Areas zoned for the MH district shall have, or shall make provision for, city water and sewer services. Areas zoned for the MH district shall be designed to adequately accommodate storm drainage; they shall have paved concrete streets with logical and efficient vehicular circulation patterns which discourage non-local traffic; they shall be properly buffered from nonresidential uses; and they shall be protected from pollution and undesirable environmental and noise impacts. (2006 Code, sec. 86-431; Ordinance 04-05-610, sec. 26.1, adopted 5/17/04)

Sec. 30.03.312 Permitted uses

Those uses listed for the MH district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-432; Ordinance 04-05-610, sec. 26.2, adopted 5/17/04)

Sec. 30.03.313 Area regulations

(a) Size of yards (for each space within manufactured housing park or subdivision). The size of yards in the MH district shall be as follows:

- (1) Minimum front yard: 25 feet from a dedicated street, private street or drive; see chapter 26, article 26.06 for additional setback requirements.
- (2) Minimum side yard: Ten feet; 20 feet between units; 20 feet from zoning district boundary line; 15 feet for a corner lot/tract on a residential or collector street, and 25 feet for a corner lot/tract on an arterial street.
- (3) Minimum rear yard: 20 feet; 25 feet from any zoning district boundary line.
- (4) Garages shall be provided; the entry (i.e., door) side of the garage shall have a 24-foot setback as measured from any property or street right-of-way line. Garage door shall not face the street.

(b) Size of space (for each space within a manufactured housing park). The size for each space within a manufactured housing park space shall be as follows:

- (1) Minimum lot/tract area: 3,500 square feet per unit.
- (2) Minimum lot/tract width: 40 feet.
- (3) Minimum lot/tract depth: 80 feet.

(c) Minimum floor area per dwelling unit. The minimum floor area per dwelling unit in the MH district shall be 1,400 square feet.

(d) Maximum lot/tract coverage. The maximum lot/tract coverage in the MH district shall be 50 percent for main building/unit plus any accessory buildings.

(e) Parking regulations. In the MH district, two attached and enclosed garage spaces per unit shall be located on the same lot/tract as the unit served (see article 30.07, division 2 of this chapter regarding off-street parking and loading requirements). All driveways and parking areas in the MH district shall be concrete or a similar paved surface such as turf pavers, brick pavers.

(f) Minimum lot/tract area for a manufactured housing subdivision/park (manufactured housing on undeveloped lot/tracts). The minimum lot/tract area for a manufactured housing subdivision/park (manufactured housing on undeveloped lot/tracts) shall be 20,000 square feet per lot/tract in the MH district.

(g) Area for manufactured housing subdivision/park. The minimum project area in the MH district shall be three acres. The maximum project area in the MF district shall be 35 acres.

(h) Maximum height limit. The maximum height limit for the MH district shall be as follows:

- (1) Two and one-half stories, or 35 feet for the main building/house.
- (2) One story, or 16 feet for other accessory buildings, including detached garage, garden shed, gazebo, etc.
- (3) Other requirements (see chapter 26, article 26.06).

(i) Minimum exterior construction standards. Minimum exterior construction standards in the MH district shall be consistent with federal and state regulations of HUD-code manufactured and mobile homes.

(2006 Code, sec. 86-433; Ordinance 04-05-610, sec. 26.3, adopted 5/17/04; Ordinance 05-03-645, sec. 9, adopted 3/4/05)

Sec. 30.03.314 Special requirements for manufactured housing parks

(a) Tenant parking. Each parking space in the MH district shall be an approved all-weather surface (i.e., concrete or a similar paved surface such as turf pavers, brick pavers), in accordance with city standards, and shall be located to eliminate interference with access to parking areas provided for other manufactured housing and for public parking in the park (see article 30.07, division 2 of this chapter regarding off-street parking and loading requirements).

(b) Visitor and supplemental parking. In addition to parking spaces required in the MH district for each manufactured housing unit, there shall be paved parking provided for the manufactured housing community in general (see article 30.07, division 2 of this chapter regarding off-street parking and loading requirements):

- (1) Two visitor parking spaces for every three manufactured housing spaces.
- (2) One supplemental parking or vehicle storage space for the parking or storage of boats, campers and similar vehicles or equipment for every four manufactured housing spaces.
- (3) Supplemental spaces may be located anywhere within the manufactured housing community provided that no manufacturing housing space shall be situated further than 150 feet from a visitor space.
- (4) Each parking space will be not less than nine feet by 20 feet, which is not to be included in the lot/tract size.

(c) Access. Each manufactured housing community in the MH district shall have direct access from an improved public street or an internal street. Where an internal private street provides access, the same shall be paved in accordance with city standards for a public street, and it shall be dedicated to the public as an emergency access/fire lane easement to allow for the rapid and safe movement of vehicles used in providing emergency health or public safety services. Each emergency access/fire lane easement shall have a clear unobstructed width of 24 feet, shall connect to a dedicated public street, and shall have a turning area and radii of a minimum of 50 feet to permit free movement of emergency vehicles. Dead-end streets are not allowed in the MH district. Cul-de-sac streets shall not exceed 400 feet in length in the MH district. Fire lane easements shall be maintained by the manufactured housing park in the MH district.

(d) Walkways. Designated concrete walkways four feet in width will be provided on both sides of roadways or streets in the MH district.

(e) Street names and signs. Within each manufactured housing park, all streets shall be named, and manufactured housing numbered in a logical and orderly fashion. Street signs in the MH district shall be of a color and size contrasting with those on public streets and roadways so that there is no confusion regarding which are private and which are public streets. These signs and numbers shall be of standard size and placement to facilitate location by emergency vehicles. Street names shall be submitted to the city manager, or his designee, along with the construction plat application, reviewed by the appropriate city staff with respect to street naming procedures set forth within chapter 28 and/or this code, and approved by the planning and zoning commission and the city council on the construction plat for the subdivision. The street names shall be set with construction plat approval, and shall not be changed on the final plat without city council approval. All dwelling unit address numbering shall be assigned by the city manager or his designee.

(f) Other signs. Along all sections of emergency access easements in the MH district, the owner or agent shall erect metal signs prohibiting parking. The sign type, size, height and location shall be in accordance with the Manual of Uniform Traffic Control Devices and approved by the city.

(g) Intersections. Internal streets in the MH district shall intersect adjoining public streets at approximately 90 degrees and at locations which will eliminate or minimize interference with traffic on those public streets.

(h) Street lighting. Street lighting within the manufactured housing park in the MH district shall be provided and maintained by the owners of the manufactured housing park.

(i) Electric and telephone service. All electrical distribution lines and all telephone/utility lines shall be underground in the MH district.

(j) Drainage and soil protection. The ground surface in all parts of the manufactured housing park shall be graded and equipped to drain all surface water in a safe, efficient manner. Each manufactured housing space shall provide adequate drainage for the placement of a manufactured housing. Exposed ground surfaces in all parts of every manufactured housing park shall be paved and/or covered with stone, brick paving, or other similar solid material, or protected with a vegetative growth (such as grass) capable of preventing soil erosion and eliminating dust.

(k) Firefighting.

- (1) Approaches to all manufactured housing shall be kept clear for firefighting in the MH district.
- (2) The owner or agent of a manufactured housing park in the MH district shall be responsible for the instruction of any staff in the use of the park fire protection equipment and in their specific duties in the event of a fire. Owner shall supply standard city fire hydrants located within 300 feet of all manufactured housing spaces, measured along the drive or street.
- (3) The owner or agent of a manufactured housing park in the MH district shall be responsible for maintaining the entire area of the park free of dry brush, leaves and weeds in excess of six inches in height.

(l) Refuse facilities. Every manufactured housing dwelling unit in the MH district shall be located within 150 feet of a refuse facility, measured along the designated pedestrian travelway. A refuse facility shall be a dumpster or other similar container designed for receiving garbage in bulk for more than one dwelling, and all refuse containers shall be maintained in accordance with local public health and sanitary regulations. Refuse containers shall be located no closer than 30 feet to any adjacent single-family property, shall be located so as to provide safe and convenient pickup by refuse collection agencies, and shall be screened in accordance with chapter 26, article 26.03. (See illustration 11 for refuse container enclosure diagrams, printed at the end of this chapter.)

(m) Anchorage of manufactured housing. To ensure against natural hazards such as tornados, high winds and electrical storms, anchorage for each manufactured housing in the MH district shall be provided according to the building code and state law.

(n) Skirting.

- (1) All manufactured housing units in the MH district shall provide skirting from the top of the unit's frame to grade. Skirting shall totally enclose and secure from view the unit's axles and all required anchors, footings, and piers.
- (2) All required skirting in the MH district shall be masonry, and shall be of a color similar to the materials used in the construction of the manufactured housing unit such that it blends with the overall appearance of the unit.

(o) Maintenance requirements for common areas. A property owners' association is required for continued maintenance of any common land and facilities provided within the manufactured housing park/subdivision in the MH district (see section 28.04.003 for property owners'/homeowners' association requirements).

(2006 Code, sec. 86-434; Ordinance 04-05-610, sec. 26.4, adopted 5/17/04)

Sec. 30.03.315 Special requirements

(a) Construction standards. Single-family, duplex, patio home, or townhouse residential units constructed in the MH district shall conform to SF-11, SF-PH or SFA district standards, respectively.

(b) Open storage. Open storage is prohibited in the MH district.

(c) Usable open space requirements. Except as provided below, any manufactured home development in the MH district shall provide usable open space which equals or exceeds 15 percent of the total land area within the development. Usable open space areas in the MH district shall be in conformance with section 30.03.215(d) and (e).

(d) Swimming pools. A swimming pool shall be provided in manufactured housing developments of 50 or more units in the MH district. See chapter 24, article 24.07 for additional requirements for swimming pools.

(e) Playground areas. One playground area containing at least five pieces of play equipment shall be provided for every 100 dwelling units, or fraction thereof in the MH district. The playground equipment in the MH district shall be of heavy-duty construction, such as is normally used in public parks or on public school playgrounds.

(f) Nonresidential uses. Site plan approval shall be required for any manufactured housing park or authorized nonresidential use allowed in the MH district. Any nonresidential land use which may be permitted in the MH district shall conform to the NS neighborhood service district standards with respect to building setbacks, landscaping, exterior building construction, screening requirements, lighting, signage, etc.

(g) Other regulations. Other regulations for the MH district shall be established by articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-435; Ordinance 04-05-610, sec. 26.5, adopted 5/17/04)

Secs. 30.03.316–30.03.340 Reserved

Division 12. O, Office District

Sec. 30.03.341 General purpose and description

The O, office, district is established to create an appropriate setting for low intensity office and professional uses. The O district can be used as a transition district between residential uses and more intense uses, and with appropriate buffers and landscaping, the O district may be located in close proximity to residential districts. Permitted uses in the O district should be compatible with adjacent residential areas by limiting heights to one or two stories, and shall not include uses that create excessive amounts of traffic, noise, trash or late-night business operations. Traffic generated by uses in the O district shall not be encouraged to travel through residential areas. Adaptive reuse of existing structures is encouraged. Buildings in the O district should be compatible and similar in scale with residential uses and adjacent property. (2006 Code, sec. 86-451; Ordinance 04-05-610, sec. 27.1, adopted 5/17/04)

Sec. 30.03.342 Permitted uses

Those uses listed for the O district in article 30.06 of this chapter as "P" or "S" are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-452; Ordinance 04-05-610, sec. 27.2, adopted 5/17/04)

Sec. 30.03.343 Height regulations

Maximum height regulations for the O district shall be as follows:

- (1) Two stories or 35 feet for the main building, except maximum height shall be 25 feet for any portion of a building that is located within 150 feet of a residential zoning district.
- (2) One story, 12 feet for accessory buildings.
- (3) Other (see chapter 26, article 26.06).

(2006 Code, sec. 86-453; Ordinance 04-05-610, sec. 27.3, adopted 5/17/04)

Sec. 30.03.344 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the O district shall be as follows:

- (1) Minimum lot/tract area: 10,000 square feet.
- (2) Minimum lot/tract width: 100 feet, except 120 feet along FM 544 or Murphy Road frontage.
- (3) Minimum lot/tract depth: 100 feet.

(b) Size of yards. The size of yards in the O district shall be as follows:

- (1) Minimum front yard: 40 feet from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see chapter 26, article 26.06 for additional setback requirements).
- (2) Minimum side and rear yard: 20 feet unless adjacent to a residentially zoned property (see below).
- (3) Minimum side or rear yard adjacent to a residential district: 40 feet.

(c) Maximum lot/tract coverage. The maximum lot/tract coverage in the O district shall be 40 percent including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.).

(d) Maximum floor area ratio (FAR). The maximum floor area ratio in the O district shall be one to one (1:1).

(e) Parking requirements. Parking requirements in the O district shall be as established by article 30.07, division 2 regarding off-street parking and loading requirements.

(f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the O district.

(2006 Code, sec. 86-454; Ordinance 04-05-610, sec. 27.4, adopted 5/17/04)

Sec. 30.03.345 Special district requirements

(a) Driveway spacing. Driveway spacing (i.e., distance between driveways, measured edge-to-edge) in the O district shall be as follows:

- (1) Arterial street: One driveway per 200 linear feet of frontage.
- (2) Collector street: One driveway per 100 linear feet of frontage.

- (3) Local street: One driveway per 50 linear feet of frontage.
- (4) Minimum distance from driveway to street corner: 50 feet, as measured from the street corner radius point of tangency.
- (b) Site plan review. Review and approval of a site plan by the planning and zoning commission and the city council (in accordance with article 30.02, division 7 of this chapter) shall be required for any tract/lot/tract within the O district. No certificate of occupancy in the O district shall be issued unless all construction and development conforms to the site plan as approved by the city council.
- (c) Landscaping requirements. For landscaping requirements in the O district see chapter 26, article 26.07.
- (d) Screening requirements. For screening requirements in the O district see chapter 26, article 26.03.
- (e) Open storage and outside display. Open storage and outside display are prohibited in the O district.
- (f) Color building facade and elevation plans. Color building facade and elevation plans in the O district shall be submitted for review and approval along with the site plan. Facade and elevation plans in the O district shall clearly show how the building will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The city manager, or his designee, may, as he deems appropriate, require submission of additional information and materials during the site plan review process.
- (g) Use of recreational vehicles, travel trailers or motor homes. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes in the O district.
- (h) Maintenance requirements for common areas. A property owners' association is required for continued maintenance of any common land and facilities provided within the development in the O district (see section 28.04.003 for property owners'/homeowners' association requirements).
- (i) Other regulations. Other regulations for the O office district shall be established in the development standards in articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-455; Ordinance 04-05-610, sec. 27.5, adopted 5/17/04)

Secs. 30.03.346–30.03.370 Reserved

Division 13. NS, Neighborhood Service District

Sec. 30.03.371 General purpose and description

The NS, neighborhood service, district is established to provide areas for limited local neighborhood, low intensity retail and service facilities for the retail sales of goods and services. These shopping areas should utilize established landscape and buffering requirements. The NS district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes, but it can also act as a buffer against residential areas. (2006 Code, sec. 86-471; Ordinance 04-05-610, sec. 28.1, adopted 5/17/04)

Sec. 30.03.372 Permitted uses

Those uses listed for the NS district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-472; Ordinance 04-05-610, sec. 28.2, adopted 5/17/04)

Sec. 30.03.373 Height regulations

Maximum height regulations for the NS district shall be as follows:

- (1) Two stories or 35 feet for the main building, except maximum height shall be 25 feet for any portion of a building that is located within 150 feet of a residential zoning district.
- (2) One story for accessory buildings.
- (3) Other (chapter 26, article 26.06).

(2006 Code, sec. 86-473; Ordinance 04-05-610, sec. 28.3, adopted 5/17/04)

Sec. 30.03.374 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the NS district shall be as follows:

- (1) Minimum lot/tract area: 10,000 square feet.
- (2) Minimum lot/tract width: 100 feet, except 120 feet along FM 544, Betsy Lane or Murphy Road frontage.
- (3) Minimum lot/tract depth: 100 feet.

(b) Size of yards. The size of yards in the NS district shall be as follows:

- (1) Minimum front yard: 40 feet from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see chapter 26, article 26.06 for additional setback requirements).
- (2) Minimum side and rear yard: 20 feet unless adjacent to a residentially zoned property (see below).
- (3) Interior side yards: When retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site (i.e., lot/tracts/lease spaces abutting one another), no side yard is required provided it complies with the city's building code.
- (4) Minimum side or rear yard adjacent to a residential district: 100 feet and shall be open space with heavy landscaping.

(c) Maximum lot/tract coverage. The maximum lot/tract coverage in the NS district shall be 40 percent including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.).

(d) Maximum floor area ratio (FAR). The maximum floor area ratio (FAR) in the NS district shall be one to one (1:1).

(e) Parking requirements. Parking requirements shall be established by article 30.07, division 2 of this chapter regarding off-street parking and loading requirements.

(f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the NS district.

(2006 Code, sec. 86-474; Ordinance 04-05-610, sec. 28.4, adopted 5/17/04)

Sec. 30.03.375 Special requirements

(a) Driveway spacing. Driveway spacing (i.e., distance between driveways, measured edge-to-edge) in the NS district shall be as follows:

- (1) Arterial street: One driveway per 200 linear feet of frontage.
- (2) Collector street: One driveway per 100 linear feet of frontage.
- (3) Local street: One driveway per 50 linear feet of frontage.
- (4) Minimum distance from driveway to street corner: 50 feet, as measured from the street corner radius point of tangency.

(b) Site plan review. Review and approval of a site plan by the planning and zoning commission and the city council (in accordance with article 30.02, division 7 of this chapter) shall be required for any tract/lot/tract within the NS district. No certificate of occupancy shall be issued in the NS district unless all construction and development conforms to the site plan as approved by the city council.

(c) Landscaping requirements. For landscaping requirements in the NS district see chapter 26, article 26.07.

(d) Screening requirements. For screening requirements in the NS district see chapter 26, article 26.03.

(e) Outside display of merchandise and seasonal items. Outside display of merchandise and seasonal items in the NS district, such as Christmas trees, pumpkins, etc., shall be limited to the following:

- (1) Shall not be placed/located more than 30 feet from the main building.
- (2) Shall not occupy any of the parking spaces that are required by this chapter for the primary use of the property, except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year.
- (3) Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.
- (4) Shall not extend into public right-of-way or onto adjacent property.
- (5) All outside display items shall be removed at the end of business each day, except for large seasonal items such as Christmas trees.
- (6) All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

(f) Open storage. Open storage is prohibited in the NS district.

(g) Color building facade and elevation plans. Color building facade and elevation plans in the NS district shall be submitted for review and approval along with the site plan. Facade and elevation plans in the NS district shall clearly show how the building will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The city manager, or his designee, may, as he deems appropriate, require submission of additional information and materials during the site plan review process.

(h) Use of recreational vehicles, travel trailers or motor homes. Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes in the NS district.

(i) Maintenance requirements for common areas. A property owners' association is required for continued maintenance of any common land and facilities provided within the development in the NS district (see section 28.04.003 for property owners'/homeowners' association requirements).

(j) Other regulations. Other regulations for the NS district shall be established in the development standards in articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-475; Ordinance 04-05-610, sec. 28.5, adopted 5/17/04)

Secs. 30.03.376–30.03.400 Reserved

Division 14. R, Retail District

Sec. 30.03.401 General purpose and description

The R, retail, district is intended to provide a location for retail and service-related establishments, such as retail product sales, offices professional, banks, hotel/motel, book stores, restaurants and other similar retail uses. The R district is intended to provide a location for high intensity retail and service facilities for the retail sales of goods and services. These shopping areas should utilize established landscape and buffering requirements. The uses envisioned for the R district will typically utilize larger sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration in the R district. (2006 Code, sec. 86-491; Ordinance 04-05-610, sec. 29.1, adopted 5/17/04)

Sec. 30.03.402 Permitted uses

Those uses listed for the R district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-492; Ordinance 04-05-610, sec. 29.2, adopted 5/17/04)

Sec. 30.03.403 Height regulations

Maximum height regulations in the R district shall be as follows:

- (1) Three stories or 45 feet for the main building, except maximum height shall be 25 feet for any portion of a building that is located within 100 feet of a residential zoning district.
- (2) One story for accessory buildings.
- (3) Other (chapter 26, article 26.06).

(2006 Code, sec. 86-493; Ordinance 04-05-610, sec. 29.3, adopted 5/17/04)

Sec. 30.03.404 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the R district shall be as follows:

- (1) Minimum lot/tract area: 10,000 square feet, except one-half acre (21,780 square feet) for any site having frontage along FM 544 or Murphy Road.
- (2) Minimum lot/tract width: 100 feet, except 120 feet along FM 544 or Murphy Road frontage.
- (3) Minimum lot/tract depth: 100 feet.

- (b) Size of yards. The size of yards in the R district shall be as follows:
- (1) Minimum front yard: 40 feet from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see chapter 26, article 26.06 for additional setback requirements).
 - (2) Minimum side and rear yard: 20 feet unless adjacent to a residentially zoned property (see below).
 - (3) Interior side yards: When retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site so that lot/tracts/lease spaces abut one another, no side yard is required provided it complies with the city's building code.
 - (4) Minimum side or rear yard adjacent to a residential district: 100 feet and shall be open space with heavy landscaping.
- (c) Maximum lot/tract coverage. The maximum lot/tract coverage in the R district shall be 40 percent including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.).
- (d) Maximum floor area ratio (FAR). The maximum floor area ratio (FAR) in the R district shall be one to one (1:1).
- (e) Parking requirements. Parking requirements for the R district shall be established by article 30.07, division 2 of this chapter regarding off-street parking and loading requirements.
- (f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the R district.

(2006 Code, sec. 86-494; Ordinance 04-05-610, sec. 29.4, adopted 5/17/04)

Sec. 30.03.405 Special requirements

- (a) Driveway spacing. Driveway spacing (i.e., distance between driveways, measured edge-to-edge) in the R district shall be as follows:
- (1) Arterial street: One driveway per 200 linear feet of frontage.
 - (2) Collector street: One driveway per 100 linear feet of frontage.
 - (3) Local street: One driveway per 50 linear feet of frontage.
 - (4) Minimum distance from driveway to street corner: 75 feet, as measured from the street corner radius point of tangency.
- (b) Site plan review. Review and approval of a site plan by the planning and zoning commission and the city council (in accordance with article 30.02, division 7 of this chapter) shall be required for any tract/lot/tract within the R district. No certificate of occupancy shall be issued unless all construction and development in the R district conforms to the site plan as approved by the city council.
- (c) Landscaping requirements. See chapter 26, article 26.07 for landscaping requirements for the R district.
- (d) Screening requirements. See chapter 26, article 26.03 for screening requirements for the R district.

(e) Outside display of merchandise and seasonal items. Outside display of merchandise and seasonal items in the R district, such as Christmas trees, pumpkins, etc., shall be limited to the following:

- (1) Shall not be placed/located more than 30 feet from the main building.
- (2) Shall not occupy any of the parking spaces that are required by this chapter for the primary use of the property, except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year.
- (3) Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.
- (4) Shall not extend into public right-of-way or onto adjacent property.
- (5) All outside display items shall be removed at the end of business each day, except for large seasonal items such as Christmas trees.
- (6) All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

(f) Open storage. Open storage in the R district is limited to a maximum of five percent of the total lot/tract area, shall not be located in front of the building facing the major thoroughfare or on top of the building, and must be screened in accordance with the provisions of chapter 26, article 26.03 so that it is not visible from any public street or adjacent property. However, periodic display of seasonal items, i.e. Christmas trees, pumpkins, etc., is allowed in the R district during the appropriate time periods as set forth herein.

(g) Color building facade and elevation plans. Color building facade and elevation plans in the R district shall be submitted for review and approval along with the site plan. Facade and elevation plans shall clearly show how the building will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The city manager, or his designee, may, as he deems appropriate, require submission of additional information and materials during the site plan review process.

(h) Use of recreational vehicles, travel trailers, motor homes or temporary buildings. Recreational vehicles, travel trailers, motor homes or temporary buildings may not be used for on-site dwelling or permanent nonresidential purposes in the R district.

(i) Maintenance requirements for common areas. A property owners' association is required for continued maintenance of any common land and facilities provided within the development in the R district (see section 28.04.003 for property owners'/homeowners' association requirements).

(j) Other regulations. Other regulations for the R district shall be established in the development standards in articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-495; Ordinance 04-05-610, sec. 29.5, adopted 5/17/04)

Secs. 30.03.406–30.03.430 Reserved

Division 15. TC, Town Center District

Sec. 30.03.431 Town center district as planned development

The TC, town center, district has been established as "Planned Development-CB" (Ordinance Nos. 00-10-504, 00-10-505, and 00-10-506, as amended). (2006 Code, sec. 86-511; Ordinance 04-05-610, sec. 30.1, adopted 5/17/04)

Secs. 30.03.432–30.03.460 Reserved

Division 16. LC, Light Commercial District

Sec. 30.03.461 General purpose and description

The LC, light commercial, district is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractor's shops, automotive repair services, upholstery shops, and other similar commercial uses. Uses in the LC district may utilize open storage areas that are screened from public view (see chapter 26, article 26.03). Some light manufacturing may also be allowed in the LC district, in conformity with certain conditions as required in this division. The uses envisioned for the LC district will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration in the LC district. (2006 Code, sec. 86-531; Ordinance 04-05-610, sec. 31.1, adopted 5/17/04)

Sec. 30.03.462 Permitted uses

Those uses listed for the LC district in article 30.06 of this chapter as "P" or "S" are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-532; Ordinance 04-05-610, sec. 31.2, adopted 5/17/04)

Sec. 30.03.463 Height regulations

Maximum height regulations for the LC district shall be as follows:

- (1) Two stories or 35 feet for the main building, except maximum height shall be 25 feet for any portion of a building that is located within 150 feet of a residential zoning district.
- (2) One story for accessory buildings.
- (3) Other (see chapter 26, article 26.06).

(2006 Code, sec. 86-533; Ordinance 04-05-610, sec. 31.3, adopted 5/17/04)

Sec. 30.03.464 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the LC district shall be as follows:

- (1) Minimum lot/tract area: 10,000 square feet, except one-half acre (21,780 square feet) for any site having frontage along FM 544.
- (2) Minimum lot/tract width: 100 feet, except 120 feet along FM 544 or Murphy Road frontage.
- (3) Minimum lot/tract depth: 100 feet.

(b) Size of yards. The size of yards in the LC district shall be as follows:

- (1) Minimum front yard: 40 feet from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see chapter 26, article 26.06 for additional setback requirements).
- (2) Minimum side and rear yard: 20 feet unless adjacent to a residentially zoned property (see below).

- (3) Interior side yards: When retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site so that lot/tracts/lease spaces abutting [abut] one another, no side yard is required provided it complies with the city's building code.
- (4) Minimum side or rear yard adjacent to a residential district: 100 feet and shall be open space with heavy landscaping.
- (c) Maximum lot/tract coverage. The maximum lot/tract coverage in the LC district shall be 40 percent including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.).
- (d) Maximum floor area ratio (FAR). The maximum lot/tract coverage in the LC district shall be one to one (1:1).
- (e) Parking requirements. Parking requirements for the LC district shall be established by article 30.07, division 2 of this chapter regarding off-street parking and loading requirements.
- (f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the LC district.

(2006 Code, sec. 86-534; Ordinance 04-05-610, sec. 31.4, adopted 5/17/04)

Sec. 30.03.465 Special requirements

- (a) Driveway spacing. Driveway spacing in the LC district (i.e., distance between driveways, measured edge-to-edge) shall be as follows:
 - (1) Arterial street: One driveway per 200 linear feet of frontage.
 - (2) Collector street: One driveway per 100 linear feet of frontage.
 - (3) Local street: One driveway per 50 linear feet of frontage.
 - (4) Minimum distance from driveway to street corner: 50 feet, as measured from the street corner radius point of tangency.
- (b) Site plan review. Review and approval of a site plan by the planning and zoning commission and the city council (in accordance with article 30.02, division 7 of this chapter) shall be required for any tract/lot/tract within the LC district. No certificate of occupancy shall be issued in the LC district unless all construction and development conforms to the site plan as approved by the city council.
- (c) Landscaping requirements. See chapter 26, article 26.07 for landscaping requirements in the LC district.
- (d) Screening requirements. See chapter 26, article 26.03 for screening requirements in the LC district.
- (e) Outside display of merchandise and seasonal items. Outside display of merchandise and seasonal items in the LC district, such as Christmas trees, pumpkins, etc., shall be limited to the following:
 - (1) Shall not be placed/located more than 30 feet from the main building.
 - (2) Shall not occupy any of the parking spaces that are required by this chapter for the primary use of the property, except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year.
 - (3) Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

- (4) Shall not extend into public right-of-way or onto adjacent property.
 - (5) All outside display items shall be removed at the end of business each day, except for large seasonal items such as Christmas trees.
 - (6) All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.
- (f) Open storage. Open storage in the LC district is limited to a maximum of five percent of the total lot/tract area, shall not be located in front of the building facing the major thoroughfare or on top of the building, and must be screened in accordance with the provisions of chapter 26, article 26.03 so that it is not visible from any public street or adjacent property. However, periodic display of seasonal items, i.e. Christmas trees, pumpkins, etc., is allowed in the LC district during the appropriate time periods in conformity with the provisions set forth herein.
- (g) Color building facade and elevation plans. Color building facade and elevation plans in the LC district shall be submitted for review and approval along with the site plan. Facade and elevation plans in the LC district shall clearly show how the building will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The city manager, or his designee, may, as he deems appropriate, require submission of additional information and materials during the site plan review process.
- (h) Recreational vehicles, travel trailers, motor homes or temporary buildings. Recreational vehicles, travel trailers, motor homes or temporary buildings may not be used for on-site dwelling or permanent nonresidential purposes in the LC district.
- (i) Maintenance requirements for common areas. A property owners' association is required for continued maintenance of any common land and facilities provided within the development in the LC district (see section 28.04.003 for property owners'/homeowners' association requirements).
- (j) Other regulations. Other regulations for the LC district shall be established in the development standards in articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-535; Ordinance 04-05-610, sec. 31.5, adopted 5/17/04)

Secs. 30.03.466–30.03.490 Reserved

Division 17. BP, Business Park District

Sec. 30.03.491 General purpose and description

The BP, business park district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, and for warehousing, research and development, wholesale and service operations that do not typically depend upon frequent customer or client visits. Such uses do require accessibility to major thoroughfares, major highways, and/or other means of transportation such as the railroad. (2006 Code, sec. 86-551; Ordinance 04-05-610, sec. 33.1, adopted 5/17/04)

Sec. 30.03.492 Permitted uses

Those uses listed for the BP district in article 30.06 of this chapter as “P” or “S” are authorized uses permitted by right or specially permitted uses, respectively. Special uses must be approved utilizing procedures set forth in article 30.05 of this chapter. (2006 Code, sec. 86-552; Ordinance 04-05-610, sec. 33.2, adopted 5/17/04)

Sec. 30.03.493 Height regulations

Maximum height regulations for the BP district shall be as follows:

- (1) Two stories or 35 feet for the main building, except maximum height shall be 25 feet for any portion of a building that is located within 150 feet of a residential zoning district.
- (2) Other (see chapter 26, article 26.06).

(2006 Code, sec. 86-553; Ordinance 04-05-610, sec. 33.3, adopted 5/17/04)

Sec. 30.03.494 Area regulations

(a) Size of lot/tract. The size of lots/tracts in the BP district shall be as follows:

- (1) Minimum lot/tract area: 20,000 square feet, except one acre (43,560 square feet) for any site having frontage along FM 544 or Murphy Road.
- (2) Minimum lot/tract width: 100 feet, except 120 feet along FM 544 or Murphy Road frontage.
- (3) Minimum lot/tract depth: 150 feet.

(b) Size of yards. The size of yards in the BP district shall be as follows:

- (1) Minimum front yard: 40 feet from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard (see chapter 26, article 26.06 for additional setback requirements).
- (2) Minimum side and rear yard: 20 feet unless adjacent to a residentially zoned property (see below).
- (3) Minimum side or rear yard adjacent to a residential district: 150 feet and shall be open space with heavy landscaping.

(c) Maximum lot/tract coverage. The maximum lot/tract coverage in the BP district shall be 50 percent including main and accessory buildings; maximum 80 percent impervious coverage (including all buildings, parking areas, sidewalks, etc.).

(d) Maximum floor area ratio (FAR). The maximum floor area ratio (FAR) in the BP district shall be one to one (1:1).

(e) Parking requirements. Parking regulations for the BP district shall be as established by article 30.07, division 2 of this chapter regarding off-street parking and loading requirements.

(f) Minimum exterior construction standards. See chapter 26, article 26.06 for exterior construction standards in the BP district.

(2006 Code, sec. 86-554; Ordinance 04-05-610, sec. 33.4, adopted 5/17/04)

Sec. 30.03.495 Special requirements

(a) Driveway spacing. Driveway spacing (i.e., distance between driveways, measured edge-to-edge) in the BP district shall be as follows:

- (1) Arterial street: One driveway per 200 linear feet of frontage.
- (2) Collector street: One driveway per 100 linear feet of frontage.

- (3) Local street: One driveway per 50 linear feet of frontage.
- (4) Minimum distance from driveway to street corner: 50 feet, as measured from the street corner radius point of tangency.
- (b) Site plan review. Review and approval of a site plan by the planning and zoning commission and the city council in the BP district (in accordance with article 30.02, division 7 of this chapter) shall be required for any tract/lot/tract within the BP district. No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the city council.
- (c) Landscaping requirements. See chapter 26, article 26.07 for landscaping requirements in the BP district.
- (d) Screening requirements. See chapter 26, article 26.03 for screening requirements in the BP district.
- (e) Open storage. Open storage in the BP district is limited to a maximum of 20 percent of the total lot/tract area, shall not be located in front of the building facing the major thoroughfare or on top of the building, and must be screened in accordance with the provisions of chapter 26, article 26.03 so that it is not visible from any public street or adjacent property.
- (f) Color building facade and elevation plans. Color building facade and elevation plans in the BP district shall be submitted for review and approval along with the site plan. Facade plans in the BP district shall clearly show how the building will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The city manager, or his designee, may, as he deems appropriate, require submission of additional information and materials during the site plan review process.
- (g) Recreational vehicles, travel trailers, motor homes or temporary buildings. Recreational vehicles, travel trailers, motor homes or temporary buildings in the BP district may not be used for on-site dwelling or permanent nonresidential purposes.
- (h) Maintenance requirements for common areas. A property owners' association is required for continued maintenance of any common land and facilities provided within the development in the BP district (see section 28.04.003 for property owners'/homeowners' association requirements).
- (i) Other regulations. Other regulations for the BP district shall be established in the development standards in articles 30.06 and 30.07 of this chapter and chapter 26.

(2006 Code, sec. 86-555; Ordinance 04-05-610, sec. 33.5, adopted 5/17/04)

Secs. 30.03.496–30.03.520 Reserved

Division 18. P/SP, Public/Semi-Public

Sec. 30.03.521 General purpose and description

The P/SP, public/semi-public, district is intended to provide for a range of public and institutional development, including public agency buildings, shops, yards, or facilities, hospitals, educational facilities, cultural and institutional facilities, and other similar and supporting uses. This district also applies to city, state, and federal lands. All development is subject to development review in accordance with the city's applications and procedures. (2006 Code, sec. 86-561; Ordinance 12-12-929, sec. 2, adopted 12/11/12)

Secs. 30.03.522–30.03.550 Reserved

Division 19. PK, Parks/Open Space

Sec. 30.03.551 General purpose and description

The PK, parks/open space, district is intended to identify existing publicly owned and operated parks, recreation areas, playgrounds, playfields or stadiums, swimming pools and open spaces that are available for use by the general public without membership or affiliation. Such lands include undeveloped open space, drainageways, and utility easements. All development is subject to development review in accordance with the city's applications and procedures. (2006 Code, sec. 86-566; Ordinance 12-12-929, sec. 2, adopted 12/11/12)

Secs. 30.03.552–30.03.580 Reserved

Division 20. PPK, Private Recreation

Sec. 30.03.581 General purpose and description

The PPK, private recreation, district is intended to identify existing private recreation facilities (such as golf courses), parks, or playgrounds which are not owned by a public agency such as the city or school district, and which are operated for the exclusive use of private residents or neighborhood groups and their guests and not for use by the general public. All development is subject to development review in accordance with the city's applications and procedures. (2006 Code, sec. 86-571; Ordinance 12-12-929, sec. 2, adopted 12/11/12)

ARTICLE 30.04 OVERLAY AND SPECIAL DISTRICTS

Division 1. Generally

Sec. 30.04.001 Use of overlay districts

Overlay districts shall be used in conjunction with base zoning districts where it is appropriate to do so. In the use of the following overlay zoning classifications, the base district shall remain in effect as it is already in existence unless changed by zoning amendment and in accordance with the provisions of article 30.02, division 5 of this chapter. New base districts or changes in existing base districts may be requested at the same time overlay or special prefix districts are requested. (2006 Code, sec. 86-581; Ordinance 04-05-610, sec. 34.1, adopted 5/17/04)

Secs. 30.04.002–30.04.030 Reserved

Division 2. PD, Planned Development Overlay District

Sec. 30.04.031 General purpose and description

(a) The city council, after public hearing and proper notice to all parties affected and after recommendation from the planning and zoning commission, may authorize the creation of a planned development (PD) overlay district.

(b) The planned development (PD) district is an overlay zoning district which accommodates planned associations of uses developed as integral land use units such as office parks, retail/commercial or service centers, shopping centers, residential developments having a mixture of housing options, or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. A planned development district may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this chapter, to ensure the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community by meeting one or more of the following purposes:

- (1) To provide for a superior design on lot/tracts or buildings;

- (2) To provide for increased recreation and open space opportunities for public use and enjoyment;
- (3) To provide amenities or features that would be of special benefit to the property users or to the overall community;
- (4) To protect or preserve natural amenities and environmental assets such as trees, creeks, ponds, floodplains, slopes, viewscapes or wildlife habitats;
- (5) To protect or preserve existing historical buildings, structures, features or places;
- (6) To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services; and
- (7) To meet or exceed the standards of this chapter.

(c) While greater flexibility is given to allow special conditions or restrictions that would not otherwise allow the development to occur, procedures are established herein to ensure against misuse of increased flexibility.

(2006 Code, sec. 86-601; Ordinance 04-05-610, sec. 35.1, adopted 5/17/04)

Sec. 30.04.032 Permitted uses

(a) An application for a PD district shall specify the base zoning district upon which the planned development is based, and the use or the combination of uses proposed, including any of the proposed uses which are not allowed by right in the base zoning district. Planned development designations shall not be attached to special use permit requirements. Specific use permits allowed in a base zoning district are allowed in a planned development only if specifically identified as allowable by special use permit at the time of planned development approval, and if specifically cited as an “additional use” in the ordinance establishing the planned development. Any use that is not specifically cited as permitted, by right or by special use permit, in the applicable base zoning district or the planned development ordinance shall be prohibited unless the planned development ordinance is amended using the procedures set forth in this division and in article 30.02, division 5 of this chapter.

(b) In the case of residential PD districts, the proposed lot/tract sizes shall be no smaller than the lot/tract sizes allowed in the base zoning district for each type of housing except for minor changes in a small percentage of the lot/tracts in order to provide improved design, or to provide flexibility in the layout of the subdivision or diversity in lot/tract size choices.

(2006 Code, sec. 86-602; Ordinance 04-05-610, sec. 35.2, adopted 5/17/04)

Sec. 30.04.033 Planned development requirements

(a) Any development requirements for a particular PD district that deviate from those of the base zoning district shall be set forth in the amending ordinance granting the PD district. These shall include, but may not be limited to: allowed or additional uses, density, lot/tract area, lot/tract width, lot/tract depth, yard depths and widths, building height and size, building exterior construction, lot/tract coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, project phasing or scheduling, property management associations, and other requirements as the city council and planning and zoning commission may deem appropriate.

(b) In the PD district, uses and development standards shall conform to the standards and regulations of the base zoning district unless specifically stated otherwise in the planned development ordinance. The base zoning district shall be stated in the planned development granting ordinance. All applications to the city shall list all requested deviations from the standard requirements set forth throughout this chapter as applicable to each base zoning district; applications without this list will be considered incomplete. The PD district shall conform to all other regulations of the applicable base zoning district, as well as all other sections of this chapter, unless

specifically changed or excluded in the ordinance establishing the planned development. A planned development that is based upon more than one base zoning district shall also include a legal (metes and bounds) description and graphic exhibit describing/showing the proposed boundaries of each respective area and its base zoning district (e.g., shown as “Proposed PD-SF-9,” “Proposed PD-NS,” etc.).

(c) The ordinance granting a PD district shall include a statement as to the purpose and intent of the PD district granted therein, as well as a general statement citing the reason for the planned development request.

(d) The minimum acreage for a planned development request shall be as follows:

- (1) Residential development (SF, SF-PH, SFA): 20 contiguous acres.
- (2) Multifamily development (MF or MH): Ten contiguous acres.
- (3) Nonresidential development (O, NS, R/LC, BP): Ten contiguous acres.
- (4) Mixed use (residential and nonresidential): 50 contiguous acres.

(2006 Code, sec. 86-603; Ordinance 04-05-610, sec. 35.3, adopted 5/17/04)

Sec. 30.04.034 Submission of concept plan

In establishing a planned development district in accordance with this division, the city council shall approve and file as part of the amending ordinance appropriate plans and standards for each PD district. To facilitate understanding of the request during the review and public hearing process, the concurrent submission of a concept plan shall be required along with the planned development zoning application. A construction plat may be submitted in lieu of the concept plan for a single-family or two-family planned development, as required by chapter 28 regarding subdivisions, if the applicant prefers to do so, and if the applicant wishes to expend the resources and funds necessary to prepare a complete construction plat submission.

- (1) Concept plan. This plan shall be submitted by the applicant at the time of the planned development request. The concept plan is part of the zoning submission process and it is not to be considered a “permit” as that term is envisioned in V.T.C.A., Local Government Code ch. 245. The plan shall show the applicant’s intent for the use of the land within the proposed PD district in a graphic manner and, as may be required, supported by written documentation of proposals and standards for development. The city may prepare application forms that further describe and explain the following requirements:
 - (A) Residential PD concept plan. A concept plan shall be submitted with any residential planned development zoning request for a development comprised of single-family or two-family (duplex) dwellings on individually platted lot/tracts, and shall show general uses, phasing of the development, access, thoroughfares, alleys (if proposed), preliminary lot/tract arrangements, proposed densities, proposed screening, landscaped or private amenity areas, project scheduling, and other pertinent development data. See chapter 28 regarding subdivisions for additional information on concept plan submission as it relates to the platting of land. For a single-family or two-family planned development (or portion of a planned development): A construction plat, as required by chapter 28 regarding subdivisions, shall be submitted for approval within one year from the approval date of the concept plan for all or some portion of the planned development covered by the overall planned development concept plan. If a construction plat is not submitted within one year, then the planned development concept plan may be subject to review by the planning and zoning commission and the city council to determine its continued validity. If the city determines that the planned development concept plan is no longer valid or that the proposed development is no longer viable, then a new planned development concept plan, including a zoning application to amend the planned development ordinance and its accompanying concept plan, must be submitted for review and approval prior to construction plat

review/approval, and any subsequent issuance of a building permit, for any single-family or two-family portion of the PD district.

- (B) Nonresidential or multifamily planned development concept plan. A concept plan shall be submitted with any nonresidential, multifamily, single-family attached, or manufactured housing planned development zoning request, and shall clearly show all pertinent aspects of the type and nature of the proposed development. The concept plan shall show the types of uses proposed; access, topography and boundaries of the planned development area; existing physical features of the site; existing and proposed streets, alleys, easements and lot/tract lines; location of existing or proposed public facilities; building heights and locations; parking areas and ratios; fire lanes; screening and landscaped areas; project phasing and scheduling; and other pertinent development data to adequately describe the proposed development (see article 30.02, division 7 of this chapter for concept plan requirements and procedures). For a nonresidential, multifamily, single-family attached, or manufactured housing planned development (or portion of a planned development): A detailed site plan shall be submitted for approval (in accordance with subsection (2) of this section, and with article 30.02, division 7 of this chapter) within one year from the approval date of the concept plan for all or some portion of the planned development covered by the overall planned development concept plan. If a detailed site plan is not submitted within one year, then the planned development concept plan may be subject to review by the planning and zoning commission and the city council to determine its continued validity. If the city determines that the planned development concept plan is no longer valid or that the proposed development is no longer viable, then a new planned development concept plan, including a zoning application to amend the planned development ordinance and its accompanying concept plan, must be submitted for review and approval prior to detailed site plan review/approval, and any subsequent issuance of a building permit, for any nonresidential, multifamily, single-family attached, or manufactured housing portion of the planned development district.

(2) Planned development site plan (detailed).

- (A) Submission and approval. Submission and approval of the detailed planned development site plan shall be in accordance with article 30.02, division 7 of this chapter, and shall accompany an application for a nonresidential, multifamily, single-family attached, or manufactured housing planned development zoning if the applicant prefers to submit the detailed site plan in lieu of the required planned development concept plan. The detailed planned development site plan will establish the final plans for development of the planned development district (or any portion thereof), and it shall substantially conform to the site layout and development data approved on the planned development concept plan, which shall be adopted along with the planned development ordinance. If a planned development concept plan was previously approved for the overall PD district, then a detailed planned development site plan, along with the required engineering/architectural site construction plans and construction plat, may be submitted for only the sections or lot/tracts that are proposed for immediate development rather than for the entire planned development. If no concept plan was approved with the ordinance establishing the planned development, then a concept plan for the entire planned development must be submitted and approved prior to approval of a detailed site plan, along with the required engineering/architectural site construction plans and construction plat, for only the portion[s] of the planned development that are proposed for immediate development. For any single-family or two-family residential district (A [AG], SF-E, SF-20, SF-15, SF-11, SF-9 or SF-PH), a construction plat shall qualify as the site plan.

- (B) Lapse, extension or reinstatement. Lapse, extension or reinstatement of the planned development site plan shall be in accordance with the provisions above and the provisions in article 30.02, division 7 of this chapter.

(2006 Code, sec. 86-604; Ordinance 04-05-610, sec. 35.4, adopted 5/17/04)

Sec. 30.04.035 Approval process and procedures

(a) The procedure for establishing a planned development zoning district shall follow the procedures for zoning amendments as set forth in article 30.02, division 5 of this chapter. This procedure shall be expanded to include concurrent consideration and approval (or denial) of the concept plan that is submitted along with the planned development zoning request application. The public hearings conducted for, and the subsequent actions taken upon, the planned development zoning request shall also include the accompanying concept plan, and if the planned development is approved then the concept plan shall become a part of the ordinance establishing the PD district.

(b) The ordinance establishing the planned development zoning district shall not be approved (or adopted) until the accompanying concept plan is approved by the city council, and until all other procedural requirements set forth in article 30.02, divisions 5 and 7 of this chapter are satisfied.

(2006 Code, sec. 86-605; Ordinance 04-05-610, sec. 35.5, adopted 5/17/04)

Sec. 30.04.036 Report required for planned development district zoning request

When a zoning request for a planned development district is being considered, a written report from the city manager, or his designee, discussing the project's impact upon planning, engineering, water utilities, electric, sanitation, building inspection, tax, police, fire and traffic, as well as written comments from applicable public agencies, such as the applicable school district and/or utility companies, may be submitted to the planning and zoning commission prior to the commission making any recommendations to the city council. In the event written comments and advisement are not forthcoming in a reasonable amount of time, the planning and zoning commission may, at its discretion, make a recommendation to the city council without said comments or advisement. (2006 Code, sec. 86-606; Ordinance 04-05-610, sec. 35.6, adopted 5/17/04)

Sec. 30.04.037 Prefix of planned development districts

All planned development zoning districts approved in accordance with the provisions of this chapter, as may be amended, shall be prefixed by a "PD" designation and assigned a unique identification number (e.g., PD-1, PD-2, PD-3, and so on), and shall also be referenced on the zoning district map. A list of such planned development districts, showing the uses permitted and any other special stipulations of each PD district, shall be maintained as part of this chapter. (2006 Code, sec. 86-607; Ordinance 04-05-610, sec. 35.7, adopted 5/17/04)

Sec. 30.04.038 Prior planned development ordinances remaining in effect

Prior to adoption of this chapter, the city council previously established certain planned development districts, some of which are to be continued in full force and effect. The ordinances or parts of ordinances approved prior to this chapter, specified in appendix A-2, shall be carried forth in full force and effect and are the conditions, restrictions, regulations and requirements which apply to the respective planned development districts shown on the zoning district map as May 27, 2004. Each prior planned development ordinance is hereby assigned a unique identification number (e.g., PD-1, PD-2, PD-3, and so on) as shown in appendix A-2, and subsequent planned development ordinances adopted after May 27, 2004, shall be similarly numbered for identification purposes. (2006 Code, sec. 86-608; Ordinance 04-05-610, sec. 35.8, adopted 5/17/04)

ARTICLE 30.05 SPECIFIC USE PERMITS**Sec. 30.05.001 Purpose and intent**

(a) Nature of special use. A special use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This article sets forth the standards used to evaluate proposed special uses and the procedures for approving specific use permit applications.

(b) Permit required. No special use shall be established and no building permit shall be issued for any use designated as a special use within any zoning district until a special use permit (SUP) is issued in accordance with the provisions of this article. An application for a special use permit shall be accompanied by a concept plan or a detailed site plan prepared in the manner described in article 30.02, division 7 of this chapter. The concept plan or site plan shall illustrate the proposed use to be established, its relationship to adjoining properties, and how it meets the approval standards set forth in section 30.05.005.

(2006 Code, sec. 86-631; Ordinance 04-05-610, sec. 36.1, adopted 5/17/04)

Sec. 30.05.002 Status of specially permitted uses

The following general rules apply to all special uses:

- (1) The designation of a use in a zoning district as may be permitted by special use permit in article 30.06 of this chapter does not constitute an authorization or assurance that such use will be approved.
- (2) Approval of a special use permit shall authorize only the particular use for which the special use permit is issued.
- (3) No use authorized by a special use permit shall be enlarged, extended or relocated, nor may the number of dwelling units be increased, unless an application is made for approval of a new specific use permit in accordance with the procedures set forth in this article and article 30.02, division 5 of this chapter.
- (4) Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by these zoning regulations, the city code, and any permits that may be required by regional, state or federal agencies.

(2006 Code, sec. 86-632; Ordinance 04-05-610, sec. 36.2, adopted 5/17/04)

Sec. 30.05.003 Application for specific use permit

(a) Application requirements. An application for a special use permit may be submitted by the property owner or by the property owner's designated representative to the city. The application shall be accompanied by a concept plan or site plan prepared in accordance with the requirements of article 30.02, division 7 of this chapter. If a base zoning district amendment is required or requested, such rezoning application shall accompany the application for a specific use permit.

(b) Subdivision approval. If the proposed use requires a division of or the platting of land, an application for the first step in subdivision approval shall be submitted in conjunction with the application for a specific use permit (see chapter 28 regarding subdivisions). Approval of the specific use permit shall not become effective until final approval of the subdivision application provided that, if the land is to be divided and developed in

phases, the approval of the specific use permit shall take effect upon construction plat approval of the phase of the subdivision containing the property on which the special use is to be located.

(2006 Code, sec. 86-633; Ordinance 04-05-610, sec. 36.3, adopted 5/17/04)

Sec. 30.05.004 Procedures for specific use permits

(a) Planning and zoning commission recommendation. Upon receipt of the recommendation from the city manager, or his designee, the planning and zoning commission shall conduct a public hearing (in accordance with article 30.02, division 5 of this chapter) in order to formulate its recommendations to the city council on the specific use permit application. Following the public hearing, the planning and zoning commission shall recommend approval, approval subject to modification, or denial of the proposal to the city council in accordance with article 30.02, division 5 of this chapter. If the appropriateness of the use cannot be assured at the location, the planning and zoning commission shall recommend denial of the application as being incompatible with existing uses or with other uses permitted by right in the district.

(b) City council action. The city council shall be the final decision-maker on applications for specific use permits. Following a public hearing and in consideration of the planning and zoning commission's recommendations, the city council shall approve, modify or deny the proposal for a specific use permit in accordance with article 30.02, division 5 of this chapter. If the appropriateness of the use cannot be assured at the location, the application for specific use permit shall be denied as being incompatible with existing uses or with other uses permitted by right in the district.

(2006 Code, sec. 86-634; Ordinance 04-05-610, sec. 36.4, adopted 5/17/04)

Sec. 30.05.005 Standards

(a) Factors for consideration. When considering applications for a specific use permit, the planning and zoning commission in making its recommendation and the city council in rendering its decision on the application shall, on the basis of the concept plan/site plan and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The planning and zoning commission and the city council shall specifically consider the extent to which:

- (1) The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted comprehensive plan;
- (2) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- (3) The proposed use meets all supplemental standards specifically applicable to the use as set forth in article 30.07 of this chapter and chapter 26;
- (4) The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:
 - (A) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
 - (B) Off-street parking and loading areas;
 - (C) Refuse and service areas;
 - (D) Utilities with reference to location, availability, and compatibility;

- (E) Screening and buffering features to minimize visual impacts, and/or setbacks from adjacent uses;
 - (F) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - (G) Required yards and open space;
 - (H) Height and bulk of structures;
 - (I) Hours of operation;
 - (J) Exterior construction material and building design; and
 - (K) Roadway adjustments, traffic-control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets;
- (5) The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

(b) Conditions. In approving the application, the planning and zoning commission may recommend, and the city council may impose, such additional conditions as are reasonably necessary to assure compliance with these standards and the purpose and intent of this article, in accordance with the procedures in article 30.02, division 5 of this chapter. Such additional conditions shall exceed the minimum standards contained herein or in any other applicable city code or ordinance, and they cannot, in effect, relax or grant relief from any of the city's minimum standards (see subsection (c) of this section). Any conditions imposed shall be set forth in the ordinance approving the special use, and shall be incorporated into or noted on the concept plan or site plan for final approval. The city manager, or his designee, shall verify that the plan incorporates all conditions set forth in the ordinance authorizing the special use, and shall sign the plan to indicate final approval. The city shall maintain a record of such approved special uses and the site plans and conditions attached thereto.

(c) Prohibition on waivers and variances. The foregoing additional conditions shall not be subject to variances that otherwise could be granted by the board of adjustment, nor may conditions imposed by the city council subsequently be waived or varied by the board of adjustment. In conformity with the authority of the city council to authorize special uses, the city council may waive or modify specific standards otherwise made applicable to the use by this chapter, to secure the general objectives of this article; provided, however, that the city council shall not waive or modify any approval factor set forth in subsection (a) of this section.

(2006 Code, sec. 86-635; Ordinance 04-05-610, sec. 36.5, adopted 5/17/04)

Sec. 30.05.006 Expiration and extension

A specific use permit may be rescinded by the city council, on its own motion and at its discretion, for failure to commence development or for failure to extend the time for performance for the concept plan or site plan approved along with the special use permit ordinance (see article 30.02, divisions 5 and 7 of this chapter). (2006 Code, sec. 86-636; Ordinance 04-05-610, sec. 36.6, adopted 5/17/04)

Sec. 30.05.007 Amendment

No proposed or existing building, premises or land use authorized as a special use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the specific use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this section, and the specific use permit and approved concept plan or site plan are amended accordingly. (2006 Code, sec. 86-637; Ordinance 04-05-610, sec. 36.7, adopted 5/17/04)

Sec. 30.05.008 Other regulations

The board of adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any specific use permit. (2006 Code, sec. 86-638; Ordinance 04-05-610, sec. 36.8, adopted 5/17/04)

Sec. 30.05.009 Use regulations

Uses allowed by special use permit are specified in article 30.06 of this chapter (use regulations). (2006 Code, sec. 86-639; Ordinance 04-05-610, sec. 36.9, adopted 5/17/04)

ARTICLE 30.06 USE REGULATIONS

Sec. 30.06.001 Use of land and/or buildings; legend for interpreting charts; categories; classification of future land types

(a) Generally. The use of land and/or buildings shall be in accordance with those listed in the following use charts. No land or building shall hereafter be used and no building or structure shall be erected, altered, or converted other than for those uses specified in the zoning district in which it is located. The legend for interpreting the permitted uses in the use charts (appendix A-3 printed at the end of this chapter) is:



Designates use permitted in the zoning district indicated.



Designates use prohibited in the zoning district indicated.



Designates use may be permitted in the zoning district indicated by specific use permit (also see article 30.05 of this chapter).

See definitions in section 30.01.006 for further description of uses.

(b) Use chart organization. The following use categories are listed in the use charts (appendix A-3):

- (1) Agricultural uses.
- (2) Residential uses.
- (3) Office uses.
- (4) Personal and business service uses.
- (5) Retail uses.
- (6) Transportation and auto service uses.
- (7) Amusement and recreational service uses.
- (8) Institutional/governmental uses.
- (9) Commercial and wholesale trade uses.
- (10) Light manufacturing/industrial and construction uses.

(c) Classification of new/unlisted uses. It is recognized that new types of land use will arise in the future, and forms of land use not presently anticipated may seek to locate in the city. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use in the use charts (appendix A-3) shall be made as follows:

- (1) Initiation.
 - (A) A person, city department, the planning and zoning commission, or the city council may propose zoning amendments to regulate new and previously unlisted uses.
 - (B) A person requesting the addition of a new or unlisted use shall submit to the city manager or his designee, all information necessary for the classification of the use, including but not limited to:
 - (i) The nature of the use and whether the use involves dwelling activity, sales, services, or processing;
 - (ii) The type of product sold or produced under the use;
 - (iii) Whether the use has enclosed or open storage and the amount and nature of the storage;
 - (iv) Anticipated employment typically anticipated with the use;
 - (v) Transportation requirements;
 - (vi) The nature and time of occupancy and operation of the premises;
 - (vii) The off-street parking and loading requirements;
 - (viii) The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated;
 - (ix) The requirements for public utilities such as sanitary sewer and water and any special public services that may be required; and
 - (x) Impervious surface coverage.
- (2) The city manager, or his designee, shall refer the question concerning any new or unlisted use to the planning and zoning commission requesting a recommendation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by the statement of facts in subsection (c)(1)(B) of this section. An amendment to this chapter shall be required as prescribed by article 30.02, division 5 of this chapter.
- (3) The planning and zoning commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use is most similar and should be permitted, by right or by special use permit.
- (4) The planning and zoning commission shall transmit its findings and recommendations to the city council as to the classification proposed for any new or unlisted use. The city council shall approve or disapprove the recommendation of the planning and zoning commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be amended in the use charts of this chapter according to article 30.02, division 5 of this chapter.

- (5) Standards for new and unlisted uses may be interpreted by the city manager, or his designee, as those of a similar use. When a determination of the appropriate zoning district cannot be readily ascertained, the same criteria outlined above shall be followed for determination of the appropriate district. The decision of the city manager, or his designee, may be appealed according to the process outlined in subsections (c)(2) through (c)(4) of this section.

(2006 Code, sec. 86-661; Ordinance 04-05-610, sec. 37.1, adopted 5/17/04)

Sec. 30.06.002 Use charts

See appendix A-3 to this chapter for all use charts, printed at the end of this chapter. (2006 Code, sec. 86-662; Ordinance 04-05-610, sec. 37.2, adopted 5/17/04)

ARTICLE 30.07 DEVELOPMENT STANDARDS

Division 1. Generally

Secs. 30.07.001–30.07.030 Reserved

Division 2. Off-Street Parking and Loading Requirements

Sec. 30.07.031 Purpose

The purpose of this division is to secure safety from fire, panic, and other dangers; to lessen congestion on public streets; to facilitate the adequate provision of transportation; to conserve the value of buildings; and to encourage the most appropriate use of land. Minimum off-street parking and loading shall be provided as set forth in the following schedules and provisions. (2006 Code, sec. 86-701; Ordinance 04-05-610, sec. 38.1, adopted 5/17/04)

Sec. 30.07.032 Residential districts; special off-street parking provisions

- (a) Required off-street parking shall be provided on the same lot/tract/site as the use it is to serve.
- (b) All required off-street parking for automobiles, boats, construction equipment and other similar vehicles shall be paved to a minimum standard of four inches thick, 3,000 per square inch (psi) concrete reinforced with minimum no. 3 rebar. Off-street parking in the SF-E district may have all-weather surface driveways as approved by the city manager or his designee.
- (c) No required parking space, garage, carport, or other automobile storage space shall be used for the storage of any heavy load vehicle, as defined in this chapter.
- (d) In the AG, SF-E, SF-20, SF-15, SF-11, SF-9, SF-PH and MH single-family and two-family residential districts, the vehicle entryway to garages and carports shall not face a public street or right-of-way adjacent to the front or side lot/tract lines, except as may be provided in subsections (f) and (g) of this section. Carports shall not have an open side facing a street. No portion of an attached garage or carport may be forward of the front building line of the living area of the residence, except as may be provided in subsection (e) of this section. Detached garages shall be within the buildable area of the lot/tract behind the rear line of the residence. Newly constructed single-family and two-family residences shall include a private, attached and enclosed garage for all required off-street parking.
- (e) Within the above-referenced zoning districts, a portion of the garage may extend out in front of the living area of the house (not including any second story living area) provided that no portion of any structure is located

within the front yard setback, or side yard setback for a corner lot/tract, and provided that all of the following additional criteria are satisfied:

- (1) No more than 60 percent of the width/depth of the garage, as measured on its axis that is most perpendicular to the street upon which the house faces, extends in front of the living area of the home. The front living area of the house is defined as first-floor space only and does not include any second-story living area. However, up to 80 percent of the width/depth of the garage may extend in front of the living area only if a third garage bay is provided and set back an increased distance from the frontmost facade of the house, in accordance with subsection (f)(5) of this section;
- (2) The residential lot/tract is at least 80 feet in width, as measured at the front building line and at the point where the garage/house is located;
- (3) The garage is architecturally integrated with, and complementary to, the overall architectural design of the house; and
- (4) Provision of a masonry “wing-wall,” or other type of wall extension or a permanent, evergreen landscaped screen, in front of/alongside of the garage door opening is encouraged in order to help screen/hide garage contents when the garage doors are open, and to enhance privacy and security for the homeowner.

(f) The garage door of a third car garage bay may face the street only if all of the following criteria are satisfied:

- (1) The third bay shall be only a single-car bay, and the door facing the street shall be no greater than ten feet in width and 8.5 feet in height;
- (2) The garage door shall be set back an additional 20 feet beyond the frontmost facade of the house;
- (3) The garage door facing the street shall be architectural, decorative, fenestrated, highly articulated, and of the same colors and materials as the rest of the home, such that it blends into the overall facade appearance;
- (4) A masonry “wing-wall,” or other type of wall extension or a permanent, evergreen landscaped screen, a minimum five-foot height, four-foot to five-foot width out from the wall of the house, and 75 percent opacity within three years of initial planting/installation shall be provided in front of/alongside of the garage/driveway area;
- (5) If the third garage bay is set back a minimum distance of 30 feet beyond the front facade of the house, then up to 80 percent of the width/depth of the required two-bay garage may extend in front of the home’s living area; and
- (6) Where a two-bay garage is located in front of the living area and a one-bay garage is located in alignment with the first floor living area or behind the first floor living area and facing the street, and separated by a front entryway (front door) the garage doors on the two-bay garage, shall be individual-bay doors with a maximum width of ten feet and 8.5 feet in height.

(g) In the AG, SF-E, SF-20, SF-15 residential districts, the garage doors of a required attached two-bay garage on may face the street only if all of the following criteria are satisfied:

- (1) The required attached garage shall be only a two-bay, and the doors facing the street shall be no greater than 18 feet in width and 8.5 feet in height;

- (2) A required one-bay garage with a 12-foot drive through porte-cochere that is architectural, decorative, fenestrated, highly articulated, and of the same colors and materials as the rest of the home, such that it blends into the overall facade appearance attached to the home and in alignment with the front of the home's living areas frontmost facade of the house/building line and placed directly in front of the required two-bay garage;
- (3) The garage doors facing the street shall be architectural, decorative, fenestrated, highly articulated, and of the same colors and materials as the rest of the home, such that it blends into the overall facade appearance;
- (4) A masonry "wing-wall," or other type of wall extension or a permanent, evergreen landscaped screen, a minimum five-foot height, four-foot to five-foot width out from the wall of the house, and 75 percent opacity within three years of initial planting/ installation shall be provided in front of/along each side of the garage/driveway area; and
- (5) If the two-bay garage is set back a minimum distance of 30 feet beyond the front facade of the house, then up to 60 percent of the width/depth of the required porte-cochere and one-bay garage may extend in front of the home's living area.

(h) The minimum distance from the edge of a residential driveway to a shared interior side property line shall be five feet for a minimum distance of eight feet from the street right-of-way line, except in the instance of a shared driveway that straddles the property line and that has minimal elevation change across the property line and no steep drop-down to the next lot/tract. The distance from the side lot/tract line (including a street side lot line for a corner lot) to the garage door shall be at least 24 feet, and a 24-foot wide driveway with a paved six-foot hammerhead turnaround shall be provided for on-site maneuvering of vehicles. The edge of the driveway, at a shared interior side lot/tract line, shall be equipped with a curb at the edge of the driveway to prevent encroachment onto the adjoining lot/tract and to channel water drainage out to the street. Where there are more than 12 inches of elevation difference on side lot lines, the driveway shall be designed with a concrete/stone retaining wall to prevent erosion along edge of driveway. The minimum residential driveway width shall be 12-foot with five-foot radius from the street curb to the 24-foot driveway entrance of the required garage area.

(i) Off-street parking surface shall mean compacted gravel contained within a border providing a minimum depth of six inches; base asphalt having a minimum depth of two inches with a four-inch stabilized base; or reinforced concrete having a minimum depth of four inches.

(j) Driveway shall mean an off-street parking surface which provides egress and ingress from and to an adjacent street or alley and which is connected to a street or alley by a driveway approach.

(k) No driveway or off-street parking surface shall cover more than 50 percent of a residential front yard, as defined in section 30.01.006 of the Code of Ordinances of the city.

(2006 Code, sec. 86-702; Ordinance 04-05-610, sec. 38.2, adopted 5/17/04; Ordinance 05-03-645, sec. 10, adopted 3/4/05; Ordinance 05-03-649, secs. 2, 3, adopted 3/21/05; Ordinance 08-06-754, sec. 2, adopted 6/16/08)

Sec. 30.07.033 Nonresidential and MF districts and nonresidential uses in residential districts; special off-street parking provisions

(a) To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties and in accordance with the standards established in chapter 26, article 26.04.

(b) For safety and firefighting purposes and for public convenience, free mutual access through to adjacent nonresidential parking areas and properties shall be provided in accordance with section 30.07.040, regarding fire lanes.

(c) All off-street parking, maneuvering, fire lane, loading and storage areas shall be paved with concrete paving in accordance with the city's parking lot/tract paving requirements: six-inch-thick 3,000 per square inch (psi) concrete reinforced with minimum no. 3 rebar spaced no less than 24 inches on center in both directions, and with a six-inch lime stabilized subgrade, and with six-inch raised concrete curbs, and graded to drain properly per city standards to prevent standing or pooling of water; minimum one percent grade is required. All driveway approaches shall be of reinforced concrete as described above, and shall be curbed to city standards. No paved parking space or area shall be designed such that a vehicle has to back up into a public street or across a public sidewalk, except for single-family and two-family dwellings, which are only allowed to egress onto a local (50-foot right-of-way) or residential collector (60-foot right-of-way) street. The standard in this subsection shall be used unless verification can be provided that an alternative concrete thickness and/or psi rating will be adequate to provide for longevity and durability due to soil/topological characteristics that are intrinsic to the site. In this instance, eight-inch-thick 3,000 per square inch (psi) concrete constructed on compacted soil subgrade reinforced with minimum no. 3 rebar spaced no less than 24 inches on center in both directions may be used for designated fire lanes and six-inch-thick 3,000 per square inch (psi) concrete constructed on compacted soil subgrade reinforced with minimum no. 3 rebar spaced no less than 24 inches on center in both directions may be used for off-street parking, maneuvering, loading and storage areas. The soil subgrade for both fire lanes and off-street parking, maneuvering, loading and storage areas is to be compacted to a minimum of 95 percent of Standard Proctor Density, at or above optimum moisture. No vehicular traffic is allowed on the finished subgrade before the pouring of concrete.

(d) All parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Non-permanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

(e) Each standard off-street surface parking space size shall be in accordance with the design standards as shown on illustration 10 for space size and design, printed at the end of this chapter. Specific parking space sizes, exclusive of aisles, driveways and maneuvering areas shall be in accordance with the following minimum sizes:

- (1) Standard: Nine feet by 20 feet; 18-foot length is allowed provided that the parking space has a two-foot clear bumper overhang area that does not encroach upon a public right-of-way, a sidewalk of less than six feet in width, or adjacent property.
- (2) Compact: Eight feet by 16 feet; must be clearly designated with appropriate signage and pavement markings (also see section 30.07.037(8)).
- (3) Parallel: Eight feet by 22 feet.

(f) The perimeter of all parking lot/tracts and driveways shall be provided with concrete curbs or other means to control traffic. All parking and loading spaces, and vehicle sales areas on private property shall have a vehicle stopping device installed so as to prevent parking of motor vehicles in any required landscaped areas, to prevent vehicles from hitting buildings, to protect public and/or private utility structures/facilities, and to prevent parked vehicles from overhanging a public right-of-way line, public sidewalk, or adjacent private property. An extra-wide walkway on private property may be permitted so as to allow encroachment of vehicle overhang while maintaining an unobstructed four-foot minimum walkway width. Parking shall not be permitted to encroach upon the public right-of-way or upon neighboring property in any case. All vehicle maneuvering shall take place on-site. No public right-of-way shall be used for backing or maneuvering into or from a parking space, or for circulation within the parking lot/tract. All entrances into parking lot/tracts shall be at least 50 feet from the beginning (i.e., tangent) point of any street corner radius. All entrances into parking lot/tracts shall be at least 24 feet in width, a maximum of 45 feet in width or 50 feet for divided entrances. Divided entrances into parking lot/tracts shall have a minimum ingress lane of 18 feet, a minimum landscaped median width of five feet for an unbroken distance of at least 100 feet into the site, and a minimum egress lane of 22 feet. If the entrance is for a fire lane, then it shall have 22 feet minimum ingress and egress lanes with the same median standards as above.

(g) Refuse storage facilities placed in a parking lot/tract shall not be located in a designated parking or loading space. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies and ease of egress from the site without having to back up further than 20 feet and without having to go the wrong way in a traffic aisle.

(h) Parking spaces for persons with disabilities and other associated provisions for the disabled shall be provided according to building codes, state laws, and requirements of the Americans with Disabilities Act (ADA). Parking spaces for persons with disabilities shall be as close as possible to the main entrance of the building, and shall be appropriately and clearly marked.

(i) In all nonresidential and multifamily zoning categories, designated parking and loading areas shall not be used for the repair, storage, dismantling or servicing, other than the normal maintenance of a private vehicle, of vehicles or equipment, or for the storage of materials or supplies, or for any other use in conflict with the designated parking and loading areas.

(j) To ensure that all requirements set forth in this division are carried forward, it will be the responsibility of the owner of the parking area to adequately maintain the facility. All off-street parking areas shall be kept free of trash, debris, vehicle repair operation or display and advertising uses. After initial approval of the parking area layout changes may be made in the location and number of provided spaces without approval of a revised site plan (see article 30.02, division 7).

(k) Off-street stacking requirements for drive-through facilities:

- (1) A stacking space shall be an area on a site measuring eight feet by 20 feet with direct forward access to a service window or station of a drive-through facility which does not constitute space for any other circulation driveway, parking space, or maneuvering area. An escape lane, of at least eight feet in width and with negotiable geometric design, must be provided to allow vehicles to get out of stacking lane in the event of a stalled vehicle, emergency, accidental entry, etc.
- (2) For financial institutions with drive-through facilities, each teller window or station, human or mechanical, shall be provided with a minimum of five stacking spaces. One escape lane shall be provided.
- (3) For each service window of a drive-through restaurant, a minimum of five spaces shall be provided for the first vehicle stop, and two spaces shall be provided for each additional vehicle stop. One escape lane shall be provided from the beginning of the stacking lane to the first stop.
- (4) For retail operations, other than restaurants, banks, etc., and kiosks that provide drive-up service, a minimum of three stacking spaces for each service window shall be provided.
- (5) For a full-service carwash, each vacuum or gas pump lane shall be provided with a minimum of four stacking spaces. For the finish/drying area, adequate vehicle stacking and storage space must be provided to keep finished vehicles out of circulation aisles, access easements, fire lanes, streets, etc.
- (6) For each automated self-service carwash bay, a minimum of three stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing.
- (7) For each wand-type self-service carwash bay, a minimum of two stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing, unless a separate shaded structure is provided outside of circulation aisles for these activities.
- (8) For automobile quick-lube type facilities, a minimum of three stacking spaces shall be provided for each service bay in addition to the service bay itself.

(l) Dead-end parking areas shall be avoided if possible. If dead-end parking is necessary, then it shall be designed such that it is no more than three parking spaces deep unless adequate turnaround space is provided. A minimum five-foot-deep hammerhead backup space shall be provided at the end of any dead-end parking area.

(m) All parking structures must conform to the construction and design standards of the zoning district in which they are located.

(2006 Code, sec. 86-703; Ordinance 04-05-610, sec. 38.3, adopted 5/17/04; Ordinance 08-06-754, sec. 3, adopted 6/16/08)

Sec. 30.07.034 Off-street loading space for all districts

(a) All retail and other nonresidential structures shall provide and maintain off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot/tract or tract. All drives and approaches shall provide adequate space and clearances to allow for the maneuvering of trucks off-street. Each site shall provide a designated on-site maneuvering area for trucks (see illustration 2 printed at the end of this chapter). Such off-street loading space may be adjacent to, but not any portion of, a public alley or private service drive, or it may consist of a truck berth within the structure. The minimum dimensions of a “regular” loading space shall be ten feet by 30 feet, and a “large” loading space shall be at least ten feet by 65 feet. Loading spaces or berths shall be provided in accordance with the following schedule:

(1) Office and institutional uses, or portions of building devoted to office/institutional uses:

0 to 19,999 square feet: 0 spaces.

20,000 to 49,999 square feet: 1 regular space.

50,000 to 149,999 square feet: 1 regular space and 1 large space.

150,000+ square feet: 2 regular spaces and 1 large space.

(2) Retail/commercial and restaurant uses, or portions of building devoted to retail/commercial and restaurant uses:

0 to 3,999 square feet: 0 spaces.

4,000 to 9,999 square feet: 1 regular space.

10,000 to 29,999 square feet: 1 regular space and 1 large space.

30,000 to 99,999 square feet: 2 regular spaces and 1 large space.

100,000 to 200,000 square feet: 2 regular spaces and 2 large spaces.

Each additional 100,000 square feet, or portion thereof, over 200,000: 1 additional large space.

(b) In all nonresidential zoning districts, loading docks or service/delivery entrances shall not be constructed facing any public street, and shall not be visible from any public street. Such loading areas shall be screened from view of any public street by the building itself, or by a masonry screening wing wall at least 12 feet in height with large evergreen trees and shrubs planted in front of it such that limited portions of the wing wall will be visible when the trees and shrubs are mature. Such masonry wing wall shall match the exterior construction materials and colors of the main building, shall have a textured finish, and shall be located no closer than 100 feet to any public street right-of-way line (see illustrations 14 and 15 printed at the end of this chapter).

(c) Loading docks for any establishment which customarily receives goods between the hours of 9:00 p.m. and 8:00 a.m. and is adjacent or close to a residential use or district shall be designed and constructed so as to enclose the loading operation on at least three sides in order to reduce the effects of the noise of the operation on adjacent residences. Other screening/buffering alternatives may be approved on the site plan provided that the city council makes a finding that the alternative method of screening/buffering will be adequate to protect nearby residences.

(d) Kindergartens, elementary schools, day schools, and similar child training and care establishments shall provide one paved off-street pedestrian loading and unloading space for an automobile on a through, "circular" drive for each ten students cared for, excluding child care in a residence. An additional lane shall also be required to allow pass-by or through traffic to move while automobiles waiting or parked to pick up children occupy loading/unloading areas.

(e) Loading spaces that are adjacent and easily accessible to several buildings or uses, including buildings and uses on separate lot/tracts, shall be allowed to satisfy the loading requirements for the individual buildings or uses, provided that:

- (1) The number of spaces satisfies the requirements for the combined square footages for the buildings or uses in question; and
- (2) For loading spaces to be shared among separate lot/tracts, they must be in reasonably close proximity to all potential users and an agreement granting mutual use by the owners of each building shall be executed and provided to the city.

(2006 Code, sec. 86-704; Ordinance 04-05-610, sec. 38.4, adopted 5/17/04)

Sec. 30.07.035 Parking access from a public street for all districts

(a) In the approval of a site plan, design consideration shall be given to providing entrance/exit drives that extend into the site to provide adequate queuing of vehicles on the site.

(b) In all districts, except single-family and duplex zoning districts, the site plan and paving plans shall provide for entrance/exit drives appropriately designed and located to minimize traffic congestion or conflict within the site and with adjoining public streets. Based upon analysis by the city, if projected volumes of traffic entering or leaving a development are likely to interfere with the projected peak traffic flow volumes on adjoining streets, additional right-of-way and/or street paving improvements in the form of a deceleration lane, a turn lane, or other roadway improvements may be required of a developer in order to reduce such interference and to help ensure traffic safety and efficiency. The dedication of additional right-of-way or street paving may also be required, and shall be determined at the time of site plan and construction plat approval.

(c) Vehicular access to nonresidential uses shall not be permitted from alleys serving residential areas, and shall not be configured as "head-in" parking spaces which are accessed directly from the street.

(d) Parking space configuration, location, arrangement, size and circulation in all districts shall be constructed according to illustration 10 printed at the end of this chapter.

(2006 Code, sec. 86-705; Ordinance 04-05-610, sec. 38.5, adopted 5/17/04)

Sec. 30.07.036 Parking requirements based upon use

In all districts, there shall be provided at the time any building or structure is erected or structurally altered, or change of use, off-street parking spaces in accordance with the following requirements:

- (1) Automobile parts sales (indoors): One space per 500 square feet of indoor floor area, plus one space for each 2,000 square feet of outside sales area.

- (2) Automobile sales or service: See Motor vehicle sales.
- (3) Bank, savings and loan, or similar institution: One space per 250 square feet of gross floor area in addition to required stacking spaces (see section 30.07.033(k)).
- (4) Bowling alley or center: Six parking spaces for each alley or lane.
- (5) Business or professional office (general): One space per 300 square feet of gross floor area, except as otherwise specified herein.
- (6) Carwash (self-serve): One space per washing bay or stall in addition to the washing areas/stalls themselves and required stacking spaces; Carwash (full service): One space per 150 square feet of floor area in addition to the required stacking spaces (also see section 30.07.033(k)).
- (7) Church, rectory, or other place of worship: One parking space for each three seats in the main auditorium/sanctuary (see section 30.07.037(2)).
- (8) Commercial amusement (indoor): One space per 100 square feet of gross floor area, or as follows:
 - (A) Racquetball or handball courts: Three spaces for each court.
 - (B) Indoor tennis courts: Six spaces for each court.
 - (C) Gymnasium, skating rinks, and martial arts schools: One space for each three seats at a maximum seating capacity (based upon maximum occupancy), plus one space for each 200 square feet.
 - (D) Swimming pool: One space for each 100 square feet of gross water surface and deck area.
 - (E) Weight lifting or exercise areas: One space for each 100 square feet.
 - (F) Indoor jogging or running tracks: One space for each 100 linear feet.
 - (G) Motion picture theaters (which do not include live performances):
 - (i) One space per 3.5 seats for single-screen theaters;
 - (ii) One space per five seats for motion picture theaters with two or more screens (see section 30.07.037(2)).
 - (H) Amusement center: One space for each game table and one space for each amusement device.
 - (I) All areas for subsidiary uses not listed above or in other parts of this division (such as restaurants, office, etc.), shall be calculated in with the minimum specified for those individual uses.
- (9) Commercial amusement (outdoor): Ten spaces plus one space for each 500 square feet over 5,000 square feet of building and recreational area.
- (10) Commercial use: One space per 250 square feet of floor area.
- (11) Community center, library, museum or art gallery: Ten parking spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one space for each four seats that it contains (see section 30.07.037(2)).

- (12) Convenience store (with gasoline pumps): One space per 200 square feet of floor area, plus one parking space for each side of a gasoline pump unit (a unit may have up to six nozzles for gasoline disbursement). Spaces within pump areas qualify as spaces for the parking requirement. Convenience store (without gasoline pumps): If no gasoline sales are provided, then the parking requirements shall be the same as for a retail store. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling.
- (13) Dance/aerobics studio, or assembly/exhibition hall without fixed seats: One parking space for each 100 square feet of floor area thereof.
- (14) Day nursery, day care center: One space per ten pupils (based upon maximum occupancy and/or licensing capacity), plus one space per teacher, plus one space for each bus or van stored on the property (and sized to accommodate the vehicle); also see stacking requirements in section 30.07.034(d).
- (15) Defensive driving school/class: One space for each classroom seat (see section 30.07.037(2)).
- (16) Fast-food or drive-in restaurant: One parking space per 100 square feet of gross floor area (including indoor/outdoor play areas and patio dining areas), or one space for every three seats under maximum seating arrangement (i.e., occupancy), whichever is greater; required parking spaces are in addition to any stacking spaces that may be needed/provided for drive-through or drive-in facilities (see section 30.07.033(k)).
- (17) Furniture or appliance store, hardware store, wholesale establishments, clothing or shoe repair or service: Two parking spaces plus one additional parking space for each 300 square feet of floor area over 1,000 square feet.
- (18) Gasoline station: One space per 200 square feet of floor area, plus one space for each side of a gasoline pump unit (a unit may have up to six nozzles for gasoline disbursement). Spaces within pump areas qualify as spaces for the parking requirement. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling.
- (19) Golf course: Four parking spaces per hole or green plus requirements for retail, office, and clubhouse areas and one space per each two employees.
- (20) Golf driving range: 1-1/2 spaces for each driving tee.
- (21) Health club, health spa or exercise club: One space per 150 square feet of floor area.
- (22) Hospital: One space for each two beds or examination room, whichever is applicable; plus one space for every two employees during periods of full occupancy.
- (23) Institutions of a philanthropic nature: Ten spaces plus one space for each employee.
- (24) Library or museum: Ten spaces plus one space for every 300 square feet.
- (25) Lodge or fraternal organization: One space per 200 square feet.
- (26) Lumber yard/home improvement center: One space per 400 square feet display area, plus one space per 1,000 square feet of warehouse.
- (27) Manufactured housing or manufactured housing park: Two spaces for each manufactured housing unit, plus visitor/supplemental parking for a manufactured housing park, in accordance with section 30.03.314(b), plus additional spaces as required herein for accessory uses.

- (28) Medical or dental office: One space per 150 square feet of floor area. Facilities over 20,000 square feet shall use the parking standards set forth for hospitals.
- (29) Mini-warehouse: Four spaces per establishment, plus two spaces for an on-site manager's residence (if applicable), plus one appropriately sized space for any type of vehicle to be stored on-site (e.g., rental trucks, boats, RVs, etc.).
- (30) Mortuary or funeral home: One parking space for each 200 square feet of floor space in slumber rooms, parlors or individual funeral service rooms, or one space for each three seats in the auditorium/sanctuary (see section 30.07.037(2)), whichever is greater. Adequate on-site stacking spaces shall also be provided for the organization and forming of processions such that these activities do not cause excessive or extended traffic congestion/delays on a public roadway.
- (31) Motor vehicle sales and new or used car lot/tracts: One parking space for each 500 square feet of sales floor/office and other indoor uses, plus one parking space for each 1,000 square feet of exterior lot/tract area used for storage, sales and parking areas, plus one parking space per repair bay in service areas (indoors or outdoors), plus one parking space per service/towing vehicle to be stored on-site (required parking spaces are in addition to those to be used for the storage/display of vehicles for sale/lease).
- (32) Office (administrative or professional): One space for each 300 square feet of floor area.
- (33) Outdoor display: One space for each 600 square feet of open sales/display area.
- (34) Pawnshop: One space for each 200 square feet of floor area.
- (35) Places of public assembly not listed: One space for each three seats provided (see section 30.07.037(2)).
- (36) Real estate office: One space for each 200 square feet.
- (37) Restaurant, private club, nightclub, cafe or similar recreation or amusement establishment: One parking space for each 100 square feet of gross floor area (including indoor/outdoor play areas and patio dining areas), or one space for every three seats based on maximum seating arrangement (i.e., occupancy), whichever is greater; required parking spaces are in addition to any stacking spaces that may be needed/provided for drive-through or drive-in facilities (see section 30.07.033(k)).
- (38) Retail or personal service establishment, except as otherwise specified herein: One space per 200 square feet of gross floor area in addition to any required stacking spaces for drive-through facilities (see section 30.07.033(k)).
- (39) Rooming house or boarding house, or group quarters: One parking space for each sleeping room, plus one parking space for each host resident or employee during maximum (i.e., peak) shift.
- (40) School, elementary (grades K–6): One parking space for each 15 students (design capacity).
- (41) School, secondary or middle (grades 7–8): One parking space for each 12 students (design capacity).
- (42) School, high school (grades 9–12): One space for each three students, faculty and staff (design capacity).
- (43) Storage or warehousing, and light manufacturing: One space for each two employees on duty at peak shifts, or one space for each 1,000 square feet of total floor area, whichever is greater.

- (44) Technical school, college, junior college or university: One space per three students, based upon maximum enrollment or design capacity, whichever is greater.
- (45) Telemarketing: One space for each 250 square feet of floor space.
- (46) Terminal facilities, truck terminals, bus depots, and other similar transportation uses: For warehouse and staging/loading areas, one space for each two employees on duty at peak shifts, or one space for each 1,000 square feet of floor area, whichever is greater; for bus depot or other human transportation use, one space per 100 square feet of passenger waiting area, plus parking spaces for any warehouse and staging/loading areas on the premises (as above).
- (47) Theater, indoor or outdoor (live performances), sports arena, stadium, gymnasium or auditorium (except school auditorium): One parking space for each three seats or bench seating spaces (see section 30.07.037(2)).
- (48) Veterinarian clinic: One space per 300 square feet of gross floor space.
- (49) Wholesale distribution uses: One space for each two employees on duty at peak shifts, or one space for each 1,000 square feet of total floor area, whichever is greater.

(2006 Code, sec. 86-706; Ordinance 04-05-610, sec. 38.6, adopted 5/17/04; Ordinance 15-06-994, sec. 16, adopted 6/2/15)

Sec. 30.07.037 Rules for computing number of parking spaces and miscellaneous off-street parking requirements

In computing the number of parking spaces required for each of the above uses, the following rules shall govern:

- (1) "Floor area" shall mean the gross floor area of the specific use.
- (2) "Seat" shall be interpreted as follows:
 - (A) For fixed (e.g., church pews, grandstands, benches, etc.) seating, one seat equals 1.75 feet of length; and
 - (B) For flexible (e.g., folding chairs, etc.) seating areas, one seat equals eight square feet of floor area occupied by such seating area (includes aisles).
- (3) Where fractional spaces result, the parking spaces required shall be construed to be the next higher whole number.
- (4) The parking space requirements for a new or unlisted use not specifically mentioned herein shall be the same as required for a use of similar nature. If the proposed use is not similar to any of the uses listed herein, a determination shall be made by the city manager or his designee, in accordance with the requirements for the most closely related use specified in this division. In the event the applicant disagrees with this determination, then he may submit a request for determination by the planning and zoning commission and the city council using the same process as provided in section 30.06.001(c) for classifying new and unlisted uses.
- (5) Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. If a building or use that was in existence prior to the effective date of the ordinance from which this chapter is derived is enlarged by more than 50 percent in floor area, based upon the floor area at the time of adoption of such ordinance, number of employees, number

of dwelling units, seating capacity or otherwise, then said building or use shall be required to conform with the parking requirements herein for the entire building or use.

- (6) For buildings which have a combination of uses within the same structure or on the same premises (such as retail or office), the off-street parking requirement shall be calculated as the summation of the parking requirements for each use, and no parking space for one particular use shall be allowed to count toward the parking requirement for some other use on the premises except in the case of a shared parking arrangement (see subsection (7) of this section).
- (7) Shared parking may be allowed in the case of mixed uses (different buildings) under the following conditions: Up to 50 percent of the parking spaces required for a theater or other place of evening entertainment (after 6:00 p.m.), or for a church, may be provided and used jointly by banks, offices, and similar uses not normally open, used, or operated during evening hours. Shared parking must be on the same parking lot/tract. Reduction due to shared parking shall only be allowed if approved on the site plan. To assure retention of the shared parking spaces, each property owner shall property draw and execute an irrevocable mutual parking agreement document expressing the same, shall file this agreement with the county, and shall provide a copy of the filed agreement to the city prior to issuance of a certificate of occupancy for any use that relies upon the parking agreement.
- (8) Compact car spaces. In the O, NS, R/LC and BP districts only, compact car parking spaces may be permitted when approved as part of a detailed site plan by the planning and zoning commission and the city council, providing at least one of the following conditions apply:
 - (A) Where it is necessary to preserve the natural landscape and native trees, a maximum of ten percent of required parking may be designated for compact cars.
 - (B) For parking lot/tracts larger than 100 spaces involving a shopping center, a maximum of 20 percent of the required parking may be for compact cars.
 - (C) For parking lot/tracts larger than 100 spaces involving large single-tenant industrial or office buildings, a maximum of 25 percent of the required parking may be for compact cars.

The city shall not be responsible for policing the use of compact car spaces on private property or for citing violations thereof.

(2006 Code, sec. 86-707; Ordinance 04-05-610, sec. 38.7, adopted 5/17/04)

Sec. 30.07.038 Location of parking spaces

All parking spaces required herein shall be located on the same lot/tract (and within 200 feet, in the case of nonresidential buildings/uses) of the building or use served, except as follows:

- (1) Where an increase in the number of spaces is required by a change or enlargement of an existing use, or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required additional spaces may be located not to exceed 300 feet from any nonresidential building served.
- (2) In any case where the required parking spaces are not located on the same lot/tract with the building or use served, or where such spaces are collectively or jointly provided and used, approval by the planning and zoning commission and the city council is required according to the following criteria: Off-site parking may be permitted on an immediately contiguous lot/tract or tract, or on a lot/tract or tract within 200 feet of such building or structure providing:
 - (A) That a permanent, irrevocable easement of the parking facilities in favor of the premises to be benefited shall be dedicated and recorded as a condition of such use; or

- (B) That a long-term remote parking lease agreement be provided upon approval by the city as a condition of such use.

(2006 Code, sec. 86-708; Ordinance 04-05-610, sec. 38.8, adopted 5/17/04)

Sec. 30.07.039 Use of required parking spaces, nonresidential districts

Required off-street parking and loading spaces shall be used only for these respective purposes and shall not be used for refuse containers, cart corrals, recycling kiosks, signs or sign support structures, telecommunications towers or support structures, storage or permanent display of boats, trailers, campers, motor vehicles or other goods, materials, or products for sale/lease/rent. (2006 Code, sec. 86-709; Ordinance 04-05-610, sec. 38.9, adopted 5/17/04)

Sec. 30.07.040 Fire lanes

(a) Fire lanes shall be provided in all multifamily, single-family attached, manufactured/mobile homes, and nonresidential developments, as required by the adopted fire code of the city (also see the subdivision regulations in chapter 28 for certain fire lane regulations). Fire lanes shall be a minimum width of 24 feet of paving, and shall have a minimum inside turning radius at curves of 20 feet, or as required by the fire code and/or the fire chief of the city. The minimum overhead vertical clearance over fire lanes shall be 14 feet for a linear distance of 50 feet on each side (i.e., in front of and behind, as a fire apparatus would traverse underneath) of any overhead structure (e.g., canopy, roof overhang, vertical height control device, etc.).

(b) Whenever 40 percent or more of an existing, nonconforming fire lane is replaced or resurfaced within a 12-month period, the entire fire lane shall be replaced with concrete according to the city's current paving standards (see section 30.07.033(c)).

(2006 Code, sec. 86-710; Ordinance 04-05-610, sec. 38.10, adopted 5/17/04)

Secs. 30.07.041–30.07.070 Reserved

Division 3. Accessory Building and Use Regulations

Sec. 30.07.071 General requirements

(a) In a residential district, an accessory building is a subordinate or incidental building, attached to or detached from the main building, not used for commercial purposes and not rented. Accessory buildings shall not be permitted without a main building or primary use being in existence. Accessory buildings shall be located toward the rear portion of the property.

(b) In nonresidential districts, an accessory building is a subordinate building, the use of which is secondary to and supportive of the main building. Accessory buildings shall not be permitted without a main building or primary use being in existence. Accessory buildings should, wherever possible, be located toward the rear portion of the property.

(c) Accessory dwelling units in the A and SF-E zoning districts shall be allowed as an incidental residential use of a building on the same lot/tract as the main dwelling unit and used by the same person or persons of the immediate family, and shall meet the following standards:

- (1) The accessory dwelling unit must be constructed to the rear of the main dwelling, and separate from the main dwelling.
- (2) The accessory dwelling unit may be constructed only with the issuance of a building permit, and shall be constructed out of the same material as the main structure.

- (3) The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be sublet.
- (4) Setback requirements shall be the same as for the main structure.
- (5) Accessory dwelling are not permitted without the main or primary structure.
- (6) All accessory dwellings and accessory structures shall use the utilities from the main structure electrical service, water and sewer, etc.

(d) Accessory dwellings (including garage/accessory dwellings and detached units) may be permitted in other residential zoning districts (see regulations for the specific district, and the use charts and regulations, article 30.06 of this chapter), and shall conform to the height limitations accessory buildings in each zoning district. No such accessory dwelling or quarters shall be used or occupied as a place of abode or residence by anyone other than a bona fide caretaker, servant or farm worker actually and regularly employed by the land owner or occupant of the main building, or is a guest or family member of the owner/occupant. Only one accessory dwelling unit (i.e., garage/accessory dwelling, servant's/caretaker's quarters, etc.) shall be allowed on any lot/tract within a residential zoning district, and they shall be clearly incidental to the primary use. These accessory living structures shall not, in any case, be leased or sold.

(e) Definitions.

- (1) Accessory building (residential). In a residential district, a subordinate building that is attached or detached and is used for a purpose that is customarily incidental to the main structure but not involving the conduct of a business. Examples may include, but are not limited to, the following: a private garage for automobile storage, tool shed, greenhouse, home workshop, children's playhouse, storage building, garden shelter, etc.
- (2) Attached accessory building (residential). Any accessory building that is physically attached to the main structure (house).
- (3) Arbor/pergola. A shelter of latticework that may be covered with climbing shrubs or vines.
- (4) Detached accessory building (residential). Any accessory building that is not physically attached to the main structure (house).
- (5) Gazebo. An accessory building consisting of a detached, covered, freestanding, open-air structure with a pitched roof design.
- (6) Patio cover. A solid or open roof structure not exceeding 12 feet in height and covering a patio, platform, or deck area. Patio covers may be detached or attached to another structure. Patio covers may not be enclosed and used for recreational and outdoor living purposes, but do not include structures used as carports, garages, storage rooms, or habitable rooms.

(2006 Code, sec. 86-761; Ordinance 04-05-610, secs. 40.1–40.4, adopted 5/17/04; Ordinance 10-01-828, sec. 2, adopted 1/4/10)

Sec. 30.07.072 Area regulations for residential districts

(a) Size of yards.

- (1) Front yard. Detached accessory buildings shall be prohibited in front of the main building.

(2) Side and rear yards.

- (A) There shall be an interior side and rear yard setback not less than ten feet from any side or rear lot/tract line provided that such accessory building is separated from the main building by a minimum distance of ten feet. In the case of an accessory building (of any size) being closer than ten feet to the main building, the minimum side and rear yard requirements for the main building shall be observed. A side yard adjacent to a street shall observe the same setback as the main building.
- (B) A side/rear setback of four feet may be used for a portable (i.e., removable) accessory building not exceeding 120 square feet in floor area, and not exceeding a total ridge height of 8.5 feet, and provided that a solid fence or wall of eight feet in height and built as the structure is built on the side/rear lot/tract line to screen the building from adjacent property or from a side street, as the case may be.
- (C) Garages or carports located and arranged so as to be entered from an interior side yard shall have a minimum setback of 24 feet from the side lot/tract line. Carports or garages arranged to be entered from the side yard, facing a public street, or from a rear or side alley shall have a minimum distance equal to the required yard for the main building or 24 feet, whichever is greater.
- (D) The height of an accessory building having more than 200 square feet in floor area shall not exceed 15 feet with a maximum wall height of ten feet measured from the finished floor to the top plate and shall be located no closer than five feet from the side and/or rear property line.
- (E) The height of an accessory building having more than 500 square feet in floor area shall not exceed 25 feet or the height of the main structure, whichever is less, with a maximum wall height of 12.5 feet measured from the finished floor to the top plate and shall be located no closer than ten feet from the side and/or rear property line.
- (F) An arbor/pergola shall be located no closer than three feet from the side and/or rear property line.
- (G) A gazebo shall be located no closer than five feet from the side and/or rear property line.
- (H) A patio cover shall be located no closer than five feet from the side and/or rear property line.

(b) Carports. Carports shall be measured from the posts supporting the roof nearest to the street or alley. (See illustration 4 printed at the end of this chapter.)

(c) Accessory buildings require main structure. Accessory buildings are not permitted without a main structure.

(d) Height of accessory buildings. Accessory buildings shall not exceed the height allowed in the specific zoning district, except taller accessory buildings (including accessory dwellings) may be allowed in certain zoning districts (see appendix A-3 printed at the end of this chapter) by special use permit if there is no adverse impact upon adjacent properties.

(e) Metal portable accessory buildings. Metal portable accessory buildings less than 120 square feet and no greater than 8-1/2 feet in total ridge height are permitted, but only if a solid fence or wall of the same height as the structure is built on the side/rear lot/tract line to screen the building from adjacent property. Such metal buildings shall not be used as an enclosed parking area or garage.

(f) Floor area of accessory buildings. In all residential districts (including agricultural), the total floor area of all accessory structures shall not exceed 50 percent of the square footage of the livable area of the residence on the premises, or five percent of the lot/tract area, whichever is larger.

(g) Number of accessory buildings. There shall be no more than two accessory buildings on any residential (or agricultural) lot/tract.

(2006 Code, sec. 86-762; Ordinance 04-05-610, sec. 40.5, adopted 5/17/04; Ordinance 10-01-828, sec. 3, adopted 1/4/10)

Sec. 30.07.073 Area regulations for accessory buildings in nonresidential and multifamily districts

(a) Size of yards.

(1) Front yard: Same as for main structure. Detached accessory buildings shall be prohibited in front of the main building.

(2) Side and rear yards: Same as for main structure.

(b) Carports. Carports shall be measured from the posts supporting the roof nearest to the street or alley. (See illustration 4 printed at the end of this chapter.)

(c) Accessory buildings require main structure. Accessory buildings are not permitted without a main structure.

(d) Height of accessory buildings. Accessory buildings shall not exceed the height allowed in the specific zoning district, except taller accessory buildings may be allowed in certain zoning districts (see appendix A-3 printed at the end of this chapter) by special use permit if there is no adverse impact upon adjacent properties.

(e) Metal portable accessory buildings. Metal portable accessory buildings less than 120 square feet and no greater than 8-1/2 feet in total ridge height are permitted, but only if a solid fence or wall of eight feet in height and built as the structure is built on the side/rear lot/tract line to screen the building from adjacent property and from the view of a public street. Such metal buildings shall not be used as an enclosed parking area or garage.

(2006 Code, sec. 86-763; Ordinance 04-05-610, sec. 40.6, adopted 5/17/04)

Sec. 30.07.074 Exterior construction standards for accessory buildings

See chapter 26, article 26.06 for exterior construction standards for accessory buildings. (2006 Code, sec. 86-764; Ordinance 04-05-610, sec. 40.7, adopted 5/17/04)

Secs. 30.07.075–30.07.100 Reserved

Division 4. Supplemental Regulations

Sec. 30.07.101 Setback measurements

(a) Measuring setbacks. All setback measurements shall be made in accordance with illustration 6 printed at the end of this chapter.

(b) Configuration of lot/tract. Wherever possible, flag lot/tracts shall be avoided. Similarly, through lot/tracts shall also be avoided wherever possible. (Also see chapter 28 regarding subdivisions for regulations pertaining to the configuration of lot/tracts.)

(c) **Building setbacks.** All setbacks established on a recorded plat shall be enforced, even if they exceed the required setbacks in this chapter. Setbacks established on a recorded plat shall only be changed through replat proceedings (see chapter 28 regarding subdivisions).

(2006 Code, sec. 86-821; Ordinance 04-05-610, sec. 43.1, adopted 5/17/04)

Sec. 30.07.102 Front yard

(a) On all corner lot/tracts, the front yard setback shall be observed along the frontage of both intersecting streets, unless approved specifically otherwise on a construction plat. Where single-family and duplex lot/tracts have double frontage, extending from one street to another, or are on a corner, a required front yard shall be provided on both streets unless a side or rear yard building line has been established along one frontage on the plat, in which event only one required front yard need be observed. The side and/or rear yards in the case of single-family and duplex uses shall be identified and the front of the structure shall not face the side or rear yard (see illustration 3 [9] printed at the end of this chapter).

(b) Where the frontage on one side of a 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 (see illustration 3 printed at the end of this chapter).

(c) The front yard shall be measured from the property line to the front face of the building, to the nearest supporting member of a covered porch or terrace, or to any attached accessory building. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed four feet, and subsurface structures, platforms or slabs may not project into the front yard to a height greater than 30 inches above the average grade of the yard (see illustration 6 [4] printed at the end of this chapter). Open porches extending into the front yard shall not be enclosed.

(d) Minimum lot/tract widths for lot/tracts with predominate frontage on the curved radius of a street (e.g., cul-de-sac or “eyebrow” portion of a street) shall be measured as the linear distance of the curved front building line, and shall be shown on the subdivision plat. Lot/tract widths for all lot/tracts shall be as set forth in the respective zoning district for each lot/tract.

(e) Gasoline service station pump islands (and their canopy structures) that parallel a public street may be located a minimum of 18 feet to the property line adjacent to a public street. For pump islands (and canopies) that are perpendicular or diagonal to a public street, the setback shall be 30 feet in order to prevent vehicles stacking out into the street while waiting for a pump position. Pump islands and their canopies may extend beyond the front building line as described above, provided that all other requirements of this chapter are met, but shall not be closer than 15 feet to any property line that is not adjacent to a public street.

(f) Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot/tract abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

(g) If 50 percent or more improved with existing buildings, and if the front yard setback for these existing buildings is greater than the front yard required for that zoning district in this chapter, then no new building shall be constructed to project beyond the least front yard depth of the existing buildings without a variance from the board of adjustment.

(2006 Code, sec. 86-822; Ordinance 04-05-610, sec. 43.2, adopted 5/17/04)

Sec. 30.07.103 Side and rear yards

(a) On a corner lot/tract used for one-family or two-family dwellings, both street exposures shall be treated as front yards on all lot/tracts platted after September 3, 2002 (pursuant to chapter 28 regarding subdivisions, Ordinance No. 02-09-549, as amended), except that where one street exposure is designated as a side yard for both adjacent lot/tracts or where the two lot/tracts are separated by an alley, street right-of-way, creek/floodplain

area, or other similar phenomenon. In such case, the building line may be designated as a side yard of 15 feet or more (as determined by the applicable zoning district standards). On lot/tracts which were official lot/tracts of record prior to the effective date of this chapter, the minimum side yard adjacent to a side street shall comply with the minimum required side yard for the respective district.

(b) Every part of a required side and rear yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, and other architectural features not to exceed 12 inches into the required side or rear yard, and roof eaves projecting not to exceed 48 inches into the required side or rear yard. Air conditioning compressors and similar equipment are permitted in the side or rear yard. Open porches extending into a side or rear yard shall not be enclosed. A canopy may project into a required side or rear yard provided that it is not enclosed, and provided that it is at least five feet from the adjacent property line.

(c) Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot/tract abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

(d) Where retaining walls are installed/required, said retaining walls shall be constructed of stone, brick or other masonry materials. Wood products/materials are not approved for retaining wall development/construction.

(2006 Code, sec. 86-823; Ordinance 04-05-610, sec. 43.3, adopted 5/17/04)

Sec. 30.07.104 Special height regulations

In districts where the height of buildings is restricted to two or more stories, cooling towers may extend for an additional height not to exceed 50 feet above the average grade line of the building. Water stand pipes and tanks, church steeples, domes and spires, ornamental cupolas, city or school district buildings, and institutional buildings may be erected to exceed the height limit, as specified in the particular zoning district, provided that one additional foot shall be added to the width and depth of front, side, and rear yards for each foot that such structures exceed the district height limit. (2006 Code, sec. 86-824; Ordinance 04-05-610, sec. 43.4, adopted 5/17/04)

Sec. 30.07.105 Communications antennae and support structures/towers

(a) Applicability.

- (1) The regulations in this section apply to all commercial and amateur antennae and support structures, unless exempted in subsection (a)(2) of this section.
- (2) Direct broadcast satellite reception, multi-channel multi-point distribution (as defined by the Federal Communications Commission), television reception antennae, and amateur radio antennae meeting the following requirements do not require a permit unless mounted on a pole or mast that is 20 feet or more in height:
 - (A) In a nonresidential zoning district, antennae that are two meters or less in diameter;
 - (B) In any zoning district, antennae designed to only receive television broadcasts;
 - (C) In any zoning district, amateur radio antennae concealed behind or located upon or within attics, eaves, gutters or roofing components of the building; and
 - (D) In any zoning district, amateur radio ground-mounted whips and wire antennae, unless mounted upon a pole or mast over 20 feet in height.
- (3) Support structures or antennae legally installed before May 27, 2004, are not required to comply with this chapter, but must comply with all applicable state, federal and local requirements, building codes and safety standards.

(b) Special definitions. For the purpose of this section, the following special definitions shall apply:

- (1) Antenna, microwave reflector and antenna support structure. An antenna is the arrangement of wires or metal rods used in transmission, retransmission and/or reception of radio, television, electromagnetic or microwave signals (includes microwave reflectors/antennae). A microwave reflector is an apparatus constructed of solid, open mesh, bar-configured, or perforated materials of any shape/configuration that is used to receive and/or transmit microwave signals from a terrestrial or orbitally located transmitter or transmitter relay. Microwave reflectors are also commonly referred to as satellite receive only earth stations (TVROS), or satellite dishes. An antenna support structure is any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of supporting one or more antennae or microwave reflectors.
- (2) Antenna (noncommercial/amateur). An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business and/or for financial gain. A satellite dish antenna not exceeding six feet in diameter shall also be considered as a noncommercial antenna.
- (3) Antenna (commercial). An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain (e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A satellite dish antenna that exceeds six feet in diameter shall also be considered as a commercial antenna.
- (4) Collocation. The use of a single support structure and/or site by more than one communications provider.
- (5) Communications operations (noncommercial/amateur). The transmission, retransmission and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use, and not for the purpose of operating a business and/or for financial gain.
- (6) Communications operations (commercial). The transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain.
- (7) Height. The distance measured from the finished grade of the lot/tract/parcel to the highest point on the support structure or other structure, including the base pad and any antennae.
- (8) Radio, television or microwave tower. See “Antenna, microwave reflector and antenna support structure.”
- (9) Telecommunications tower or structure. See “Antenna, microwave reflector and antenna support structure.”
- (10) Temporary/mobile antenna. An antenna and any associated support structure/ equipment (including, but not limited to, a support pole, a vehicle, etc.) that is placed and/or used on a temporary basis only (i.e., not intended to be permanent), usually in conjunction with a special event, news coverage or emergency situation, or in case of equipment failure or temporary augmentation of permanent communications equipment.
- (11) Wireless communication tower or structure. See “Antenna, microwave reflector and antenna support structure.”

(c) General requirements.

- (1) Antennae and support structures may be considered either principal or accessory uses.
- (2) Antenna installations shall comply with all other requirements of this chapter and this code, unless otherwise specified herein or exempt under applicable state or federal law.
- (3) No commercial antenna support structure shall be closer to any residential district boundary line or residential dwelling than a distance equal to twice the height of the support structure, unless otherwise specified herein. Such setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a residential district boundary line or residential dwelling. Setbacks from residentially zoned property do not apply to antennae attached to utility structures that exceed 50 feet in height, or to antennae placed wholly within or mounted upon a building.
- (4) No amateur or commercial antenna, antenna support structure, microwave reflector/ antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards.
- (5) All antennae and support structures must meet or exceed the current standards and regulations of the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), and/or all other applicable federal, state and local authorities. If those standards change, then the owner/user of an antenna or support structure must bring the antenna/structure into compliance within six months or as may otherwise be required by the applicable regulating authority.
- (6) A building permit is required to erect or install an antenna, antenna support structure and related structures/equipment, unless otherwise exempt from these regulations. All installations shall comply with applicable federal, state and local building codes and the standards published by the Electronic Industries Association. Owners/users shall have 30 days after receiving notice that an installation is in violation of applicable codes in order to bring it into full compliance.
- (7) Amateur or commercial antennae shall not create electromagnetic or other interference with the city's and the county's radio frequencies and public safety operations, as required by the Federal Communications Commission.
- (8) No antenna or support structure shall be located so as to create a visual obstruction within critical visibility areas or a traffic safety problem.
- (9) Safeguards shall be utilized to prevent unauthorized access to an antenna. Safeguards include certain devices identified/recommended by the manufacturer of the antenna or support structure, a fence, a climbing guard, warning/hazard signs or other commercially available safety devices. Climbing spikes or other similar climbing device, if utilized, shall be removed immediately following use.
- (10) Temporary antennae shall only be allowed in the following instances:
 - (A) In conjunction with a festival, carnival, rodeo or other special event/activity;
 - (B) In case of an emergency (e.g., severe weather, etc.) or a news coverage event;
 - (C) When needed to restore service on a temporary basis after failure of an antenna installation. The city must be notified within 72 hours of the placement of a temporary antenna. If the temporary antenna is to be needed for more than seven days, then the owner/user must apply for and acquire a permit for the temporary installation on or before the eighth day following initial placement of the antenna.

- (11) Collocation is greatly encouraged by the city.
- (A) All new support structures over 50 feet in height shall be constructed to support antennae for at least two carriers, unless the structure is an alternative or stealth design, or the support structure is replacing an existing utility structure or light standard. Sufficient area for associated structures and equipment shall also be provided.
 - (B) A support structure which is modified or reconstructed in order to accommodate collocation shall be of the same type, design and height as the existing structure, and it may be moved on the same property within 50 feet of its original location provided that it is not moved any closer to residentially zoned property (if the structure was allowed by special use permit, then its new location shall be within the physical/land boundaries of the special use permit). The original (i.e., former) support structure shall be removed from the property within 90 days following completion of the new structure.
 - (C) Where an additional antenna is to be attached to an existing support structure that already has an antenna mounted upon it, the new antenna shall comply with and be compatible with the design of the existing antenna on the collocated structure.
- (12) Support buildings and equipment storage areas/buildings shall be screened from public view if mounted on a rooftop. When ground mounted, support buildings and equipment storage areas/buildings shall meet all applicable front, side and rear yard setback requirements of the applicable base zoning district. Support buildings and equipment storage areas/buildings shall also be of a neutral color and shall use exterior finish colors and materials that are compatible with nearby structures. Support buildings and equipment storage areas/buildings shall be screened from public view by a dense, opaque evergreen landscaped screen with an initial planting height of three feet, and which will attain an ultimate height of six feet at maturity. A six-foot solid masonry wall may be used in lieu of the landscaped screen provided exterior finish materials are compatible with nearby structures. The use of a wood fence for screening is prohibited, and wrought iron may only be used in conjunction with a landscaped screen as specified above.
- (13) Satellite dishes and other similar antennae shall be permitted on the roof of a building, as long as satellite dishes do not exceed one meter (39 inches) in diameter and antennae do not extend over ten feet above the roof of the building. A letter certifying the roof's/building's structural stability shall be written and sealed by a registered architect or engineer, and shall be submitted to the city manager, or his designee, prior to any approval of a roof-mounted antenna. Roof-mounted antennae that comply with the provisions of these regulations do not require additional yard setbacks or setbacks from residential areas or dwellings.
- (14) All commercial signs, flags, lights and attachments other than those required for emergency identification, communications operations, structural stability, or as required for flight visibility by the Federal Aviation Administration and/or the Federal Communications Commission shall be prohibited on any antenna or antenna support structure. However, lights may remain or be placed upon light standards that are altered or replaced in order for them to serve as antenna support structures provided that said lights are not commercial (i.e., for-profit) in nature, and provided that said lights are placed/replaced as the same size, configuration, number of bulbs, degree of luminance, etc., as they previously existed prior to support structure modification/replacement.
- (15) Any publicly owned antennae or antenna support structures shall be permitted in any zoning district (e.g., public safety communications, etc.).

- (16) In all residential zoning districts, or adjacent thereto (including agricultural, SF-E, SF-20, SF-15, SF-11, SF-9, SF-PH, SFA, MF-12 and MH), commercial antennae and antenna support structures are not allowed, except as specified within this division.
- (A) A commercial antenna may be attached to a utility structure (e.g., electrical transmission/distribution tower, elevated water storage tank, etc.) provided that the utility structure exceeds 50 feet in height, and provided that the antenna does not extend more than ten feet above the height of the utility structure (see subsection (c)(3) of this section).
 - (B) A commercial antenna may be placed wholly within any building permitted in the zoning district (see subsection (c)(3) of this section). A commercial antenna may also be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.
- (17) In nonresidential zoning districts (including O, NS, R, LC and BP), commercial antennae and antenna support structures are allowed as follows:
- (A) Commercial antenna support structures are allowed by right if they do not exceed the maximum building height allowed for the zoning district in which they are located. Structures in excess of the height allowed in the zoning district may be allowed by specific use permit, up to a maximum of 175 feet, provided the structure conforms in all other aspects of the base zoning district's regulations, and provided that all applicable setback requirements are satisfied. In all nonresidential zoning districts, antenna support structures must meet all setback requirements, particularly from residential zoning districts.
 - (B) A commercial antenna may be attached to a utility structure (e.g., electrical transmission/distribution tower, elevated water storage tank, etc.) provided that the utility structure exceeds 50 feet in height, and provided that the antenna does not extend more than ten feet above the height of the utility structure (see subsection (c)(3) of this section).
 - (C) A commercial antenna may be placed wholly within any building permitted in the zoning district (see subsection (c)(3) of this section). A commercial antenna may also be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design, and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.

(2006 Code, sec. 86-825; Ordinance 04-05-610, sec. 43.5, adopted 5/17/04)

Sec. 30.07.106 Minimum dwelling unit area

Minimum dwelling unit areas specified in this chapter shall be computed exclusive of breezeways, garages, open or covered porches, carports and accessory buildings. The minimum dwelling unit area shall be defined as the habitable floor area of the dwelling. (2006 Code, sec. 86-826; Ordinance 04-05-610, sec. 43.6, adopted 5/17/04)

Sec. 30.07.107 Open storage areas

Open storage of materials, commodities or equipment (where allowed in the specific zoning district) shall be located behind the front building line and observe all setback requirements for the main structure or building. This standard does not apply to outside display (see definition of outside display in section 30.01.006; see screening requirements in chapter 26, article 26.03). (2006 Code, sec. 86-827; Ordinance 04-05-610, sec. 43.7, adopted 5/17/04)

Sec. 30.07.108 Sight visibility

(a) Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding, landscaping or other feature obstructs the vision of a motor vehicle driver approaching any street, alley, or driveway intersection. Whenever an intersection of a street, alley, and/or driveway occurs, a triangular visibility area shall be created. Landscaping, fences, walls, earthen berms and other features within the triangular visibility area shall be designed so as to provide unobstructed cross-visibility at a level between 24 inches and eight feet above the ground. The triangular areas are defined as follows:

- (1) Alley intersects a public street right-of-way: The areas on both sides of the intersection of an alley and a public street shall have a triangular visibility area with two sides of each triangle being a minimum of ten feet in length from the point of intersection, and the third side being a line connecting the ends of the other two sides (see illustration 12 printed at the end of this chapter).
- (2) Minor street intersection (except a street intersecting onto an arterial, see below) or intersection of private driveway onto a public street: These areas shall have a triangular visibility area with two sides of each triangle being a minimum of 25 feet in length along the right-of-way lines (or along the driveway curblane and the street right-of-way line) from the point of the intersection, and the third side being a line connecting the ends of the other two sides (see illustration 12 printed at the end of this chapter).
- (3) Major street intersection (the intersection of two arterials, type “B” or above): These areas shall have a triangular visibility area with two sides of each triangle being a minimum of 50 feet in length along the right-of-way lines from the point of the intersection, and the third side being a line connecting the ends of the other two sides (see illustration 12 printed at the end of this chapter).

(b) Shrubs and plant materials that are typically less than 24 inches in height at maturity may be located within sight visibility areas provided that they are kept maintained at a maximum height of 24 inches.

(c) A limited number of single-trunked trees having a clear trunk (i.e., branching) height of at least eight feet may be located within sight visibility areas provided that they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area defined above, and provided that they are spaced and positioned such that their trunks will not produce a visibility-inhibiting, “picket-fence” effect when they attain mature size.

(2006 Code, sec. 86-828; Ordinance 04-05-610, sec. 43.8, adopted 5/17/04)

Sec. 30.07.109 Nonresidential structures in residential districts

Nonresidential structures (e.g., churches, schools, day care centers, etc.) which are permitted in residential zoning districts (AG, SF-E, SF-20, SF-15, SF-11, SF-9, SF-PH, SFA, MF-12 and MH) shall be designed and constructed such that they conform to the development standards set forth in the neighborhood service (NS) zoning district (i.e., with respect to maximum height, minimum lot/tract size, minimum front/side/rear setbacks, landscaping, screening, exterior building construction, etc.) unless otherwise stated in this chapter or in an ordinance establishing a planned development. (2006 Code, sec. 86-829; Ordinance 04-05-610, sec. 43.9, adopted 5/17/04)

Sec. 30.07.110 Pad sites

(a) Pad sites, which shall be defined as sites or lot/tracts that are no larger than 1.5 acres in size, shall not occupy more than 75 percent of any street frontage of a development.

(b) Buildings on pad sites may not block more than 50 percent of the view into a development.

(2006 Code, sec. 86-830; Ordinance 04-05-610, sec. 43.10, adopted 5/17/04)

Sec. 30.07.111 Access standards for nonresidential and multifamily lot/tracts

(a) All nonresidential lot/tracts, including pad sites, shall share driveway curb openings via mutual access easements from one lot/tract to adjacent lot/tracts, for fire and emergency access, as well as for public convenience.

(b) All nonresidential and multifamily lot/tracts, including pad sites, shall have either direct or indirect, via mutual access/fire lane easements on adjacent property, access to a median opening if located on a median-divided roadway, whether existing or planned in the future. Driveways for all nonresidential and multifamily lot/tracts, including pad sites, shall align, to the greatest extent possible, with any existing or proposed driveways on the other side of any type of roadway.

(2006 Code, sec. 86-831; Ordinance 04-05-610, sec. 43.11, adopted 5/17/04)

Secs. 30.07.112–30.07.140 Reserved

Division 5. Home Occupation Regulations

Sec. 30.07.141 Purpose

Standards for controlling home occupations are set forth to minimize annoyance and inconvenience to neighboring property owners within residential areas. The standards in this division are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses. (2006 Code, sec. 86-901; Ordinance 04-05-610, sec. 46.1, adopted 5/17/04)

Sec. 30.07.142 Special provisions for home occupations

(a) Home occupations shall be permitted as an accessory use in single-family and two-family residential zoning districts (i.e., AG, SF-E, SF-20, SF-15, SF-11, SF-9, SF-PH, SFA and MH) provided that they comply with all restrictions herein.

(b) The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a residential dwelling, and performance of the occupation activity shall not be visible from the street.

(c) Such use shall be incidental and secondary to the use of the premises for residential purposes, and shall not utilize floor area exceeding 20 percent of the combined gross floor area of dwelling unit and any accessory buildings that are used for the home occupation (in no case shall the combined floor area utilized for a home occupation exceed 500 square feet).

(d) The occupation shall not employ more than one person who is not a member of the household in which the home occupation occurs.

(e) Not more than two patron or business-related vehicles shall be present at one time, and the proprietor shall provide adequate off-street parking on the property where the use is located.

(f) The operation of such an occupation shall be between the hours of 8:00 a.m. and 6:00 p.m. for outdoor activities, and between 8:00 a.m. and 10:00 p.m. for indoor activities.

(g) One commercial vehicle, capacity of one ton or less, according to the manufacturer's classification, may be used or parked, behind the front building line, on the property in connection with the home occupation, but said vehicle may not be parked in the street or within the front yard setback.

(h) The occupation activity shall not increase vehicular traffic flow beyond what normally occurs within a residential district, and shall not require regular and frequent deliveries by large delivery trucks or vehicles with a rated capacity in excess of 1-1/2 tons, according to the manufacturer's classification.

(i) There shall be no outside storage, including trailers, or outside display related to the home occupation use.

(j) No mechanical or electrical equipment shall be employed on the premises other than that which is customarily found in a home environment, and that which is customarily associated with a hobby or avocation which is conducted solely for pleasure and not for profit or financial gain.

(k) The home occupation shall not generate noise, vibration, glare, fumes/odors, heat or electrical interference beyond what normally occurs within a residential district.

(l) The home occupation shall not require the use of chemicals on the property that are obnoxious or hazardous to the welfare of the neighborhood.

(m) The home occupation shall not involve the use of advertising signs or window displays, or any other device that calls attention to the business use of the premises through audio and/or visual means.

(n) The home occupation shall not offer a ready inventory of any commodity for sale on the premises unless the commodity is made/assembled on-site (e.g., arts and crafts items, handmade clothing, etc.).

(o) The home occupation shall not be harmful or detrimental to the health, welfare and safety of the neighborhood, nor shall it interfere with the comfortable enjoyment of life, property and recreation by residents of the area.

(2006 Code, sec. 86-902; Ordinance 04-05-610, sec. 46.2, adopted 5/17/04)

Sec. 30.07.143 Applicability of other regulations

Home occupations shall also be subject to any and all other provisions of local, state and/or federal regulations and laws that govern such uses. (2006 Code, sec. 86-903; Ordinance 04-05-610, sec. 46.3, adopted 5/17/04)

Sec. 30.07.144 Uses allowed as home occupations

Subject to the provisions of section 30.07.142, home occupations may include the following uses:

- (1) Office facility of an accountant, architect, landscape architect, attorney, engineer, consultant, insurance agent, realtor, broker, or similar profession;
- (2) Author, artist or sculptor;
- (3) Dressmaker, seamstress or tailor;
- (4) Music/dance teacher, or similar types of instruction, provided that instruction shall be limited to no more than one pupil at a time;
- (5) Individual tutoring and home schooling;
- (6) Millinery;
- (7) Office facility of a minister, rabbi, priest or other clergyman;
- (8) Home crafts, such as rug weaving, model making, etc.;

- (9) Office facility of a salesman, sales or manufacturer's representative, etc., provided that no retail or wholesale transactions or provision of services are personally and physically made on the premises;
- (10) Repair shop for small electrical appliances, cameras, watches/clocks, and other small items, provided that the items can be carried by one person without using special equipment, and provided that the items are not equipped with an internal combustion engine;
- (11) Food preparation establishments such as cake making/decorating or catering, provided that there is no on-premises consumption by customers, and provided that all aspects of the business comply with all state and local health regulations;
- (12) Registered family homes (see definition in section 30.01.006), in compliance with applicable state laws, which are incorporated herein by reference, with no more than six children;
- (13) Barbershop/beauty salon or manicure studio, provided that not more than one customer is served at a time;
- (14) Swimming lessons and water safety instruction, provided that such instruction involves no more than six pupils at any one time; and
- (15) Bed and breakfast facility (see definition in section 30.01.006), provided that no more than five guests are accommodated/served at a time.

(2006 Code, sec. 86-904; Ordinance 04-05-610, sec. 46.4, adopted 5/17/04)

Sec. 30.07.145 Uses prohibited as home occupations

Home occupations shall not, in any event, be deemed to include the following uses:

- (1) Animal hospitals or clinics, commercial stables, or kennels;
- (2) Schooling or instruction, except swimming/water safety classes and home schooling, with more than one pupil at a time;
- (3) Restaurants or on-premises food or beverage (including private clubs) consumption of any kind, except for limited food/meal consumption associated with the operation of a licensed registered family home or a bed and breakfast facility;
- (4) Automobile, boat or trailer paint or repair shop; small engine or motorcycle repair shop; welding shop; large household appliance repair shop; or other similar type of business;
- (5) Office facility for a doctor, dentist, veterinarian or other medical-related profession;
- (6) On-premises retail or wholesale sales of any kind, except for items that are produced entirely on the premises in conformance with this chapter, and except for occasional garage sales;
- (7) Commercial clothing laundering or cleaning;
- (8) Mortuaries or funeral homes;
- (9) Trailer, vehicle, tool or equipment rentals, sales or leasing;
- (10) Repair shops or services, except as specifically provided in section 30.07.144;
- (11) Drapery or furniture upholstery shops;

- (12) Antique, gift or specialty shops;
- (13) Repair shops for any items having internal combustion engines; and
- (14) Any use that would be defined by the building code as an assembly, factory/industrial, hazardous, institutional or mercantile occupancy.

(2006 Code, sec. 86-905; Ordinance 04-05-610, sec. 46.5, adopted 5/17/04)

Sec. 30.07.146 Home occupation uses not classified

Any use that is not either expressly allowed nor expressly prohibited by sections 30.07.144 and 30.07.145, respectively, is considered prohibited, unless and until such use is classified by amendment to this chapter by the city council, subsequent to an affirmative recommendation by the planning and zoning commission. (2006 Code, sec. 86-906; Ordinance 04-05-610, sec. 46.6, adopted 5/17/04)

Sec. 30.07.147 Effect of division upon existing home occupations

(a) Any home occupation that was legally in existence as of May 27, 2004, and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use, and is subject to the provisions of article 30.02, division 2 of this chapter, provided that the owner/proprietor of such home occupation register his business with the city within 90 days of May 27, 2004, and provided that the home occupation use was not in violation of any other local, state or federal law or regulation on that date. Proof of the existence of such home occupation use prior to May 27, 2004, the effective date of the ordinance from which this chapter is derived, shall be required upon registration.

(b) Any home occupation that was legally in existence as of May 27, 2004, and that conforms with the provisions herein shall be hereby authorized to continue, provided that the home occupation use is registered with the city as described in subsection (a) of this section.

(2006 Code, sec. 86-907; Ordinance 04-05-610, sec. 46.7, adopted 5/17/04)

Secs. 30.07.148–30.07.180 Reserved

Division 6. Special Regulations for Certain Types of Uses

Sec. 30.07.181 Day care centers

(a) Site plan approval by the planning and zoning commission and the city council shall be required for all day care center sites, whether or not a special use permit is required.

(b) Day care centers are a permitted use by right if operated by an organized church and within the building complex of said church. However, operation of day care facilities requires site plan approval and issuance of a certificate of occupancy for day care.

(c) Day care centers located within any residential district, except MF-12, shall be required to plat in multiples of the minimum lot/tract size (width and depth) of the district requirements, such that the site could reasonably be later subdivided into conforming residential lot/tracts.

(d) Day care centers are permitted in nonresidential districts only when:

- (1) The day care center is platted on an individual lot/tract;
- (2) The day care center is in a multi-occupant building with direct access to the exterior of the building. Direct access must be provided to the outdoor play space, and the outdoor play space must be immediately adjacent and not separated from the day care center;

- (3) The day care center is located in an office structure or similar single-user structure with no direct access to the exterior of the building other than doorways connecting to outdoor play space, as per building code requirements;
 - (4) The day care center is an accessory use which provides a service to employees, customers or patrons of the principal use. A two-square-foot identification sign may be provided; or
 - (5) The day care center is in an accessory building located on the same lot/tract as the main building and provides a service to employees, customers or patrons of the main building. A two-square-foot identification sign may be provided.
- (e) All day care centers shall comply with the following standards:
- (1) All passenger drop-off areas and outdoor play space shall be located so as to avoid conflict with vehicular traffic. Adequate walkways shall be provided.
 - (2) Outdoor play space shall be provided at a rate of 65 square feet per child, based upon the maximum design capacity. The required outdoor play space shall have no dimension of less than 30 feet. This requirement may be waived by the planning and zoning commission and/or city council if the day care is provided for less than four hours per day for each child.
 - (3) No day care center shall be part of a one-family or two-family dwelling.
 - (4) A day care center shall abut and derive its primary access from a street with a pavement width of 36 feet or greater, and shall have direct access to a median opening on a median-divided roadway (existing or planned).
 - (5) No portion of a day care center site shall be located within 300 feet of gasoline pumps or underground fuel storage tanks, or any other storage area/facility for explosive materials.
 - (6) All other aspects of a day care center site shall conform to regulations and/or guidelines established by the state department of human resources and/or the state department of family and protective services.

(2006 Code, sec. 86-991; Ordinance 04-05-610, sec. 48.1, adopted 5/17/04)

Sec. 30.07.182 Itinerant vendors

See chapter 6, article 6.04 for provisions regarding itinerant vendors. (2006 Code, sec. 86-992; Ordinance 04-05-610, sec. 48.2, adopted 5/17/04)

Sec. 30.07.183 Sexually oriented businesses

See chapter 6, article 6.07 for provisions regarding sexually oriented businesses. (2006 Code, sec. 86-993; Ordinance 04-05-610, sec. 48.3, adopted 5/17/04)

Sec. 30.07.184 Alcoholic beverage sales

See chapter 6, article 6.02 for provisions regarding alcoholic beverage sales. (2006 Code, sec. 86-994; Ordinance 04-05-610, sec. 48.4, adopted 5/17/04)

**ARTICLE 30.08 INTERPRETATION; PRESERVING RIGHTS; PENALTY FOR VIOLATIONS;
VALIDITY****Sec. 30.08.001 Effect of interpretation**

In interpreting and applying the provisions of this chapter, the city manager, or his designee, shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by agreements, the provisions of this chapter shall govern. This chapter is also not intended to abrogate or annul any lawfully obtained permit issued prior to May 27, 2004. (2006 Code, sec. 86-1021; Ordinance 04-05-610, sec. 51, adopted 5/17/04)

Sec. 30.08.002 Preserving rights in pending litigation and violations under existing ordinances

By the passage of this chapter, no presently illegal or nonconforming use shall be deemed to have been legalized unless such use specifically falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this chapter that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the existing zoning chapter was repealed and this chapter adopted, shall be discharged or affected by such repeal and adoption of this chapter; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed. (2006 Code, sec. 86-1022; Ordinance 04-05-610, sec. 52, adopted 5/17/04)

Sec. 30.08.003 Penalty for violations

(a) Any person or corporation violating any of the provisions of this chapter shall, upon conviction, be fined any sum not exceeding \$2,000.00 and each and every day that the provisions of this chapter are violated shall constitute a separate and distinct offense.

(b) Nothing contained herein shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(2006 Code, sec. 86-1023; Ordinance 04-05-610, sec. 53, adopted 5/17/04)

Sec. 30.08.004 Severability

If any word, section, article, phrase, paragraph, sentence, clause, or portion of this chapter or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this chapter; and the city council hereby declares it would have passed such remaining portions of this chapter despite such invalidity, which remaining portions shall remain in full force and effect. (2006 Code, sec. 86-1024; Ordinance 04-05-610, sec. 54, adopted 5/17/04)

APPENDIX A-1. AREA REGULATIONS

Base Districts													Overly Districts					
Area Regulation	AG	SF-E	SF-20	SF-15	SF-11	SF-9	SF-PH	SFA	MF-12	MH	O	NS	TC	R	LC	BP	PD	SUP
Code Section	30.03.031 et seq.	30.03.061 et seq.	30.03.091 et seq.	30.03.121 et seq.	30.03.151 et seq.	30.03.181 et seq.	30.03.211 et seq.	30.03.251 et seq.	30.03.281 et seq.	30.03.311 et seq.	30.03.341 et seq.	30.03.371 et seq.	30.03.431 et seq.	30.03.401 et seq.	30.03.461 et seq.	30.03.491 et seq.	30.04.031 et seq.	30.05.001 et seq.
Maximum Height													See PD - Ordinance 00-10-504				See appendix A-2	See specific SUP ordinance
Main building/house	45'	35'	35'	35'	35'	35'	35'	35'	35'	PD only	25'-35'*	25'-35'*		45'	35'	35'		
AG structures	45'	45'	N/A	N/A	N/A	N/A	N/A	N/A	N/A	PD only	N/A	N/A		N/A	N/A	N/A		
Accessory bldgs.	15'	12'	12'	12'	12'	12'	12'	12'	12'	PD only	12'	12'		1 story	1 story	N/A		
Area Regulations																		
Min. lot area	5 acres	40K	20K	15K *	11K *	9K *	5K *	6K *	30K *	PD only	10K	10K		10K*	10K*	20K-43K*		
Min. lot width	115'	125'	115'	100'	90'	75'	50'	40'	125'	PD only	100'-120'*	100'-120'*		100'-120'*	100'-120'*	100'-120'*		
Min. lot depth	150'	150'	130'	120'	120'	120'	100'	100'	200'	PD only	100'	100'		100'	100'	150'		
Max. lot coverage	25%	25%	35%	35%	35%	35%	50%	50%	50%	PD only	40%*	40%*		40%*	40%*	50%*		
Min. front yard	50'	50'	40'	30'	25'	25'	25'	15' *	50'	PD only	40'*	40'*		40'*	40'*	40'*		
Min. side yard	*	*	*	*	*	*	*	*	*	PD only	20'*	20'*		20'*	20'*	20'*		
Min. rear yard	20%	25'	25'	20'	20'	20'	20'	15' *	*	PD only	100'*	100'*		100'*	100'*	150'*		
Min. dwelling area - sq. ft.	2400	2400	2400	2200	2200	2000	1800	1400	*	PD only	N/A	N/A		N/A	N/A	N/A		

*See proper code section for detail on and/or exception.

(2006 Code, ch. 86, app. A-1; Ordinance 04-05-610, app. A-1, adopted 5/17/04)

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APPENDIX A-2. PLANNED DEVELOPMENT

Editor's note—The list of planned developments is not printed herein, but is available for public inspection at the city offices.

(2006 Code, ch. 86, app. A-2; Ordinance 04-05-610, app. A-2, adopted 5/17/04; Ordinance adopting 2015 Code)

APPENDIX A-3. USE REGULATIONSSection 30.06.002 - Use charts.Legend

- P The land use is permitted by right in the zoning district indicated.
 The land use is prohibited in the zoning district indicated.
 S The land use may be approved as a conditional use/Specific Use Permit (SUP) in the zoning district indicated.

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts				
	AG	SF-E	SF-20	SF-15	SF-11	SF-9 (PD only)	SF-PH (PD only)	2F (PD only)	SFA (PD only)	MF-12	MH	O	NS	R	LC	BP
Agricultural Uses																
Bulk grain and/or feed storage	P															P
Farms, general (crops)	P															P
Farms, general (livestock/ranch)	P	P	S													P
Greenhouse (non-retail/hobby)	P	P	P	P	P	P	P	P	P	P	P					P
Hay, grain, and/or feed sales	P													P	P	P
Livestock sales	P															P
Orchard/crop propagation	P	P	P													P
Plant nursery (growing for commercial purposes but no retail sales on site)	P	P														P
Stables (as a business)	P															S
Stables (private, accessory use)	P	P	P													S
Stables (private, principal use)	P	P	S													S
Residential Uses																
Accessory building/structure (residential)	P	P	P	P	P	P	P	P	P	P	P					
Accessory building/structure (nonresidential)												P	P	P	P	P
Accessory dwelling	P	P	P	P					P	P	P					
Caretaker's/guard's residence									P	P	P			P		P

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts				
	AG	SF-E	SF-20	SF-15	SF-11	SF-9 (PD only)	SF-PH (PD only)	2F (PD only)	SFA (PD only)	MF-12	MH	O	NS	R	LC	BP
Community home	P	P	P	P	P	P	P	P	P	P	P					
Duplex/two-family								P								
Family home adult care	P	P	P	P	P	P	P	P	P	P	P					
Family home child care	P	P	P	P	P	P	P	P	P	P	P					
Four-family (quadraplex)										P						
Home occupation	P	P	P	P	P	P	P	P	P	P	P					
Multifamily (apartments)										P						
Private street subdivision																
Rooming house/boarding house										P						
Single-family detached	P	P	P	P	P	P	P	P	S	S	S					
HUD-code manufactured home											P					
Single-family industrialized home	P	P	P	P	P	P	P	P	S	S	P					
Single-family townhouse (attached)									P	P						
Single-family zero-lot/tract-line/patio homes							P			P						
Swimming pool (private use only by resident)	P	P	P	P	P	P	P	P	P	P	P					
Three-family (triplex)										P						
Office Uses																
Armed services recruiting center												P	P		P	P
Credit agency												P	P		P	P
Insurance agency offices												P	P	P	P	P
Offices (brokerage services)												P	P	P	P	P
Offices (health services)												P	P		P	P
Offices (legal services)												P	P		P	P
Offices (medical office)												P	P	P	P	P
Offices (professional)												P	P		P	P
Offices (parole-probation)												P	S		P	P
Real estate offices												P	P		P	P
Telemarketing agency												S	S	S	P	P

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts				
	AG	SF-E	SF-20	SF-15	SF-11	SF-9 (PD only)	SF-PH (PD only)	2F (PD only)	SFA (PD only)	MF-12	MH	O	NS	R	LC	BP
Bank (stand-alone)																
Savings and loan (stand-alone)																
Security monitoring company (no outside storage)												P	S	P	P	P
Personal and Business Service Uses																
Alternative financial establishment														S	S	S
Appliance repair															P	P
Artist studio												P	P	P	P	P
Ambulance service (private)															P	P
Automobile driving school (including defensive driving)												S	S	P	P	P
Automatic teller machines (ATMs)												P	P	P	P	P
Barber/beauty shop/college (barber or cosmetology school or college)												P	P	S	P	P
Barber/beauty shop (non-college)													P	P	P	P
Bed and breakfast inn	S	S	S	S	S	S				S			P	P		P
Car title loan business														S	S	S
Check cashing business														S	S	S
Communication equipment (installation and/or repair - no outdoor sales or storage)															P	P
Computer sales													P	P	P	P
Credit unions												P	P	P	P	P
Dance/drama/music schools (performing arts)												P	P		P	P
Exterminator service (no outdoor sales or storage)														S	P	P
Financial services (advice/invest)												P	P	P	P	P
Funeral home														S	P	P
Hotel/motel, full service												S		P	P	P
Hotel/motel, limited service														S	S	S
Martial arts school												P	P	S	P	P
Kiosk (providing a service)												S	S	S	P	S

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts				
	AG	SF-E	SF-20	SF-15	SF-11	SF-9 (PD only)	SF-PH (PD only)	2F (PD only)	SFA (PD only)	MF-12	MH	O	NS	R	LC	BP
Laundry/dry cleaning (drop off/pick up)													P	P	P	P
Locksmith													P	P	P	P
Mini-warehouse/self-storage														S	P	P
Payday advance or loan business														S	S	S
Photo studio												P	P	P	P	P
Photocopying/duplicating												P	P	P	P	P
Security quarters as associated with a business (live-in)															P	P
Sexually oriented business	(See article 6.07 of the city code)															
Shoe repair												P	P	P	P	P
Studio for radio or television (without tower)												P	P	S	P	P
Tailor shop												P	P	P	P	P
Tool rental (indoor storage only)														P	P	P
Tool rental (with outdoor storage)														S	P	P
Travel agency												P	P	P	P	P
Retail Uses																
Alcoholic beverage retail sales, beer barns, etc. (no drive-through)																
All-terrain vehicle (go-carts) dealer/sales														S	P	P
Antique shop (household items; no outside storage)													P	P	P	P
Art dealer/gallery												P	P	P	P	P
Auto dealer (primarily new/used auto sales as accessory use only)														S	P	P
Auto dealer, used auto sales														S	P	P
Auto supply store for new and rebuilt parts													S	P	P	P
Bakery (retail)													P	P	P	P
Bike sales and/or repair													P	P	P	P
Book store												S	P	P	P	P
Building material sales														P	P	P
Cabinet shop (manufacturing)														S	P	S

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts				
	AG	SF-E	SF-20	SF-15	SF-11	SF-9 (PD only)	SF-PH (PD only)	2F (PD only)	SFA (PD only)	MF-12	MH	O	NS	R	LC	BP
Cafeteria													P	P	P	P
Confectionery store (retail)													P	P	P	P
Consignment shop														P	P	P
Convenience store without gas sales													P	P	P	P
Department store														P	P	P
Drapery shop/ blind shop													S	P	P	P
Florist													P	P	P	P
Food or grocery store													P	P	P	P
Furniture sales (indoor)													S	P	P	P
Garden shop (inside only; no outside storage)													P	P	P	P
Gravestone/ tombstone sales														S	P	P
Handicraft shop													P	P	P	P
Hardware store													P	P	P	P
Home improvement center														P	P	P
Lawnmower sales and/or repair														P	P	P
Major appliance sales (indoor)														P	P	P
Market (public, flea)														S	S	S
Motorcycle dealer (primarily new/repair)														S	P	P
Personal watercraft sales (primarily new/repair)														S	P	P
Needlework shop													P	P	P	P
Pet shop/supplies													P	P	P	P
Pharmacy (stand-alone)													S	S	S	S
Plant nursery (retail sales/outdoor storage)													S	S	P	P
Recycling kiosk													S	S	P	P
Restaurant												P	P	P	P	P
Restaurant (drive-in)													S	P	P	P
Retail store (misc.)													P	P	P	P
Security systems installation company														P	P	P
Studio, tattoo or body piercing																S
Temporary outdoor retail sales/ commercial promotion (30-day time limit; permit req'd)													P	P	P	P

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts				
	AG	SF-E	SF-20	SF-15	SF-11	SF-9 (PD only)	SF-PH (PD only)	2F (PD only)	SFA (PD only)	MF-12	MH	O	NS	R	LC	BP
Upholstery shop (non-auto)														S	P	P
Used merchandise/ furniture store														S	P	P
Vacuum cleaner sales and repair													P	P	P	P
Veterinarian (indoor kennels)													P	P	P	P
Woodworking shop (ornamental)														P	P	P
Permanent cosmetics														S		
Transportation and Automotive Uses																
Auto body repair															P	P
Auto financing and leasing														S	P	P
Auto glass repair/tinting														S	P	P
Auto interior shop/ upholstery														S	P	P
Auto muffler shop														S	P	P
Auto paint shop															P	P
Auto repair (general)														S	P	P
Auto repair as an accessory use to retail sales														S	P	P
Auto tire repair/sales (indoor)														S	P	P
Auto wrecker service															P	P
Carwash (self- service; automated)													S	S	P	P
Full-service carwash (detail shop)													S	S	P	P
Limousine/taxi service															P	P
Public garage/ parking structure														P	P	P
Quick lube/ oil change/ minor inspection													P	S	P	P
Tire sales (outdoors)														S	P	P
Automotive gasoline or motor fuel service station														P	P	
Auto rental														S	P	P
Amusement and Recreational Uses																
Amusement devices/arcade (four or more devices)													S	S	P	S
Amusement services (indoors)													S	P	P	P
Amusement services (outdoors)													S	S	S	S
Billiard/pool facility (three or more tables)														S	S	S

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts				
	AG	SF-E	SF-20	SF-15	SF-11	SF-9 (PD only)	SF-PH (PD only)	2F (PD only)	SFA (PD only)	MF-12	MH	O	NS	R	LC	BP
Bingo facility														S	S	S
Bowling center														P	P	P
Broadcast station (with tower)															P	S
Country club (private)	S	S	S	S	S	S	S	S	S	S	S					P
Dance hall/dancing facility														S	P	P
Day camp	P															P
Dinner theater													S	P	P	P
Driving range	S													S	P	P
Earth satellite dish (private, less than three inches in diameter)	(See section 30.07.105)															
Exhibition hall														S	P	P
Fairground														S	S	S
Golf course (miniature)	S												S	P	P	P
Golf course (private)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Golf course (public)	S															
Health club (physical fitness; indoors only)													S	P	P	P
Motion picture theater (indoors)													S	P	P	P
Motion picture studio, commercial film														P	P	P
Museum (indoors only)												P	P	P	P	P
Park and/or playground (private)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Park and/or playground (public)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Travel trailers/RVs (short-term systems)											S					
Rodeo grounds	S															S
Skating rink (ice)													P	P	P	P
Swimming pool (private; membership)	S	S	S	S	S	S	S	S	S	S	S	S	S		P	P
Swimming pool (public)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Tennis court (lighted)	S	S	S	S	S	S	S	S	S	P	P	S	S	S	S	S
Tennis court (private/not lighted)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Theater (non-motion picture; live drama)														P	P	P
Video rental/sales													P	P	P	P
Institutional/ Governmental Uses																
Antenna (noncommercial)	(See section 30.07.105)															

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts				
	AG	SF-E	SF-20	SF-15	SF-11	SF-9 (PD only)	SF-PH (PD only)	2F (PD only)	SFA (PD only)	MF-12	MH	O	NS	R	LC	BP
Antenna (commercial)	(See section 30.07.105)															
Assisted Living Facility (≤6 residents)		P	P	P	P	P	P	P	P	P	P	S	S			
Assisted Living Facility (≥7 residents)		S	S	S	S	S	S	S	S	P	S	S	S			
Broadcast towers (commercial)	(See section 30.07.105)															
Cellular communications tower/PSS	(See section 30.07.105)															
Cemetery and/or mausoleum	S													S	S	S
Child day care (business)												S	S	S	S	S
Church/place of worship	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Civic club												P	P	P	P	P
Clinic (medical)												P	P	P	P	P
Community center (municipal)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Electrical generating plant	S													S	S	S
Electrical substation	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P
Electrical transmission line	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P
Emergency care clinic													S	P	P	P
Fire station	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Franchised private utility (not listed)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Fraternal organization												S	S	P	P	P
Gas transmission line (regulating station)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Governmental building (municipal, state or federal)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Group day care home									S	P	P	S	S	S	S	S
Heliport															S	S
Helistop													S	P	P	P
Hospice										P				S	S	S
Hospital (acute care/chronic care)													S	P	P	P
Independent Living Facility									S	P	S	S	S			
Library (public)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Mailing service (private)												P	P	P	P	P

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts				
	AG	SF-E	SF-20	SF-15	SF-11	SF-9 (PD only)	SF-PH (PD only)	2F (PD only)	SFA (PD only)	MF-12	MH	O	NS	R	LC	BP
Maternity homes										P				S	S	S
Nonprofit activities by church	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Nursing Home/Convalescent Center									S	P	S	S	S			
Orphanage	S									S						
Philanthropic organization												S	S	S	S	S
Phone exchange/switching station	S											S	S	S	S	S
Police station	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Post office (governmental)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Radio/television tower (commercial)	(See section 30.07.105)															
Rectory/parsonage	P	P	P	P	P	P	P	P	P	P	P	P	P			
Rehabilitation Care Facility															S	S
Rehabilitation Care Institution																S
Retirement home/home for the aged									S	P	S	S	S			
School, K through 12 (private)	S	S	S	S	S	S	S	S	S	S	S	S	S			S
School, K through 12 (public)	P	P	P	P	P	P	P	P	P	P	P	P	P			P
School, vocational (business/commercial trade)															P	P
Sewage pumping station	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Utility distribution line	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Water supply facility (private)																P
Water supply facility (elevated water storage)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Water/wastewater treatment plant (public)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Commercial and Wholesale Trade Uses																
Book binding														S	S	P
Feed and grain store	S													P	P	P
Furniture manufacture																P
Heating and air conditioning sales/services														S	P	P
Livestock - wholesale	P															S
Pawnshop														S	P	P
Propane sales (retail)														S	S	P

Types of Land Uses	Residential Zoning Districts											Nonresidential Zoning Districts				
	AG	SF-E	SF-20	SF-15	SF-11	SF-9 (PD only)	SF-PH (PD only)	2F (PD only)	SFA (PD only)	MF-12	MH	O	NS	R	LC	BP
Taxidermist	S													S	S	P
Transfer station (refuse/pickup)	S														S	P
Veterinarian (outdoor kennels or pens)	S													S	S	P
Warehouse/office														P	P	P
Welding shop															P	P
Light Industrial/Manufacturing Uses																
Temporary model home sales office, no outside storage including vehicles (only with model home permit)		P	P	P	P	P	P	P	P	P	P					
Concrete batch plant (permanent)																
Concrete batch plant (temporary)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Contractor's office/sales, with outside storage including vehicles															P	P
Contractor's temporary on-site construction office (only with permit)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Electronic assembly														S	S	P
Engine repair/motor manufacturing, remanufacturing and/or repair														S	P	P
Laboratory equipment manufacturing																P
Machine shop														S	P	P
Maintenance and repair service for buildings														S	S	P
Micro-brewery (on- site mfg. and sales)																P
Outside storage														S	S	P
Plumbing shop (no outside storage)														P	P	P
Research lab (nonhazardous)														S	S	P
Sand/gravel sales (storage)														S	S	S
Sign manufacturing														S	S	P
Stone/clay/glass manufacturing														S	S	P

Notes:

When developed as a permitted use, an Alternative Financial Establishment shall comply with the development standards of the district in which it is located.

When developed as a permitted use, an Alternative Financial Establishment shall be in a stand-alone building. Also, each building shall be located a minimum of 1500 feet apart, measured from property line to property line.

(Ordinance 04-05-610, app. 3, adopted 5/17/04; Ordinance 05-04-651, secs. 2–6, adopted 4/18/05; Ordinance 05-11-682, secs. 2, 3, adopted 11/21/05; Ordinance 09-05-799, sec. 2, adopted 5/18/09; Ordinance 11-07-887, secs. 2, 3, adopted 7/5/11; Ordinance 14-02-971, sec. 2, adopted 2/18/14; Ordinance 15-06-994, secs. 18, 19, adopted 6/2/15)

ILLUSTRATIONS

ILLUSTRATION # 1



ILLUSTRATION # 2

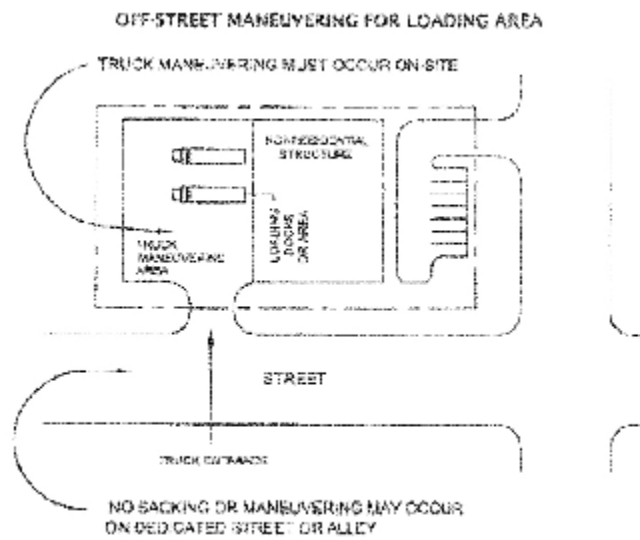


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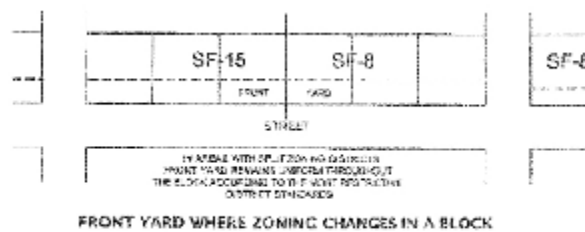


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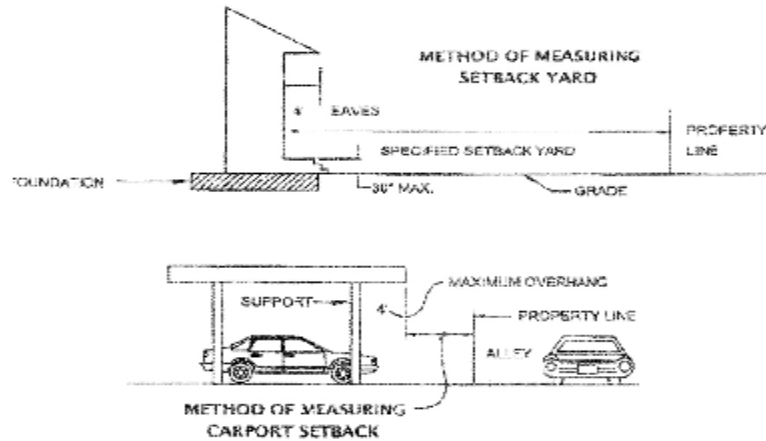


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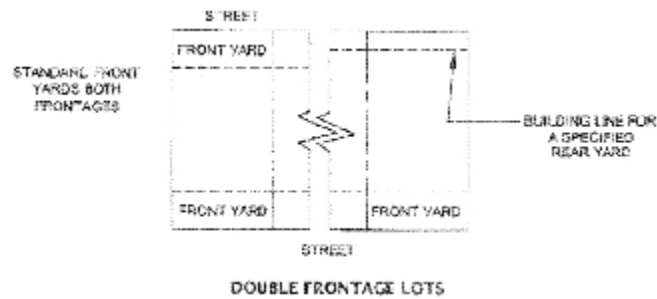


ILLUSTRATION # 6



ILLUSTRATION # 7

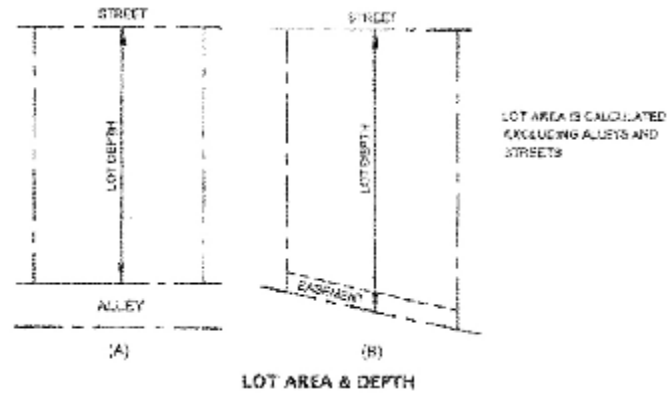


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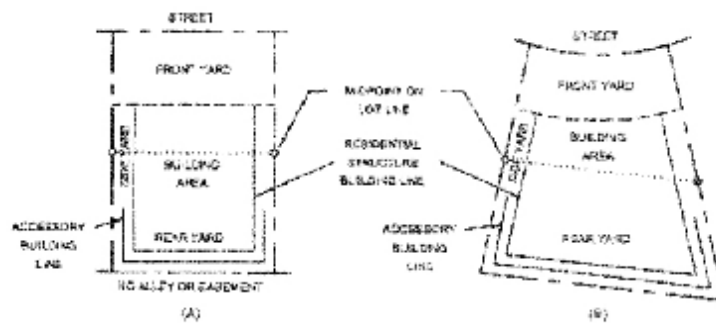


ILLUSTRATION # 9

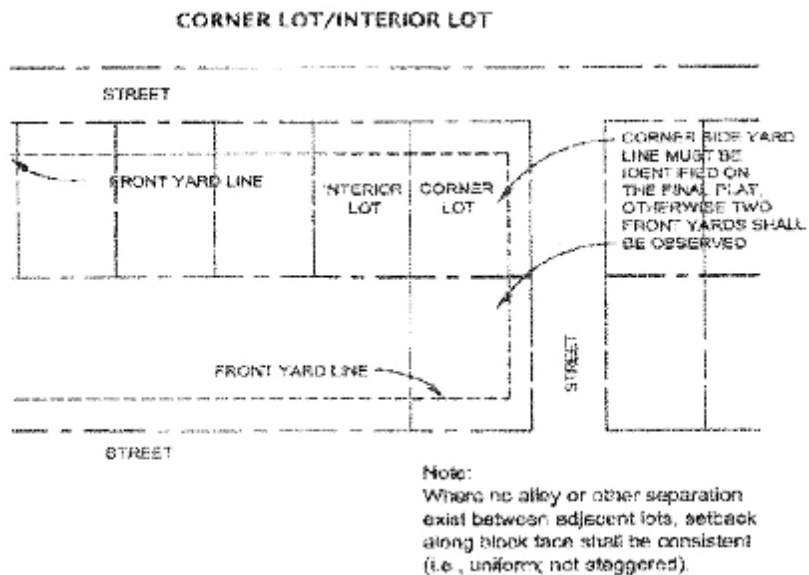
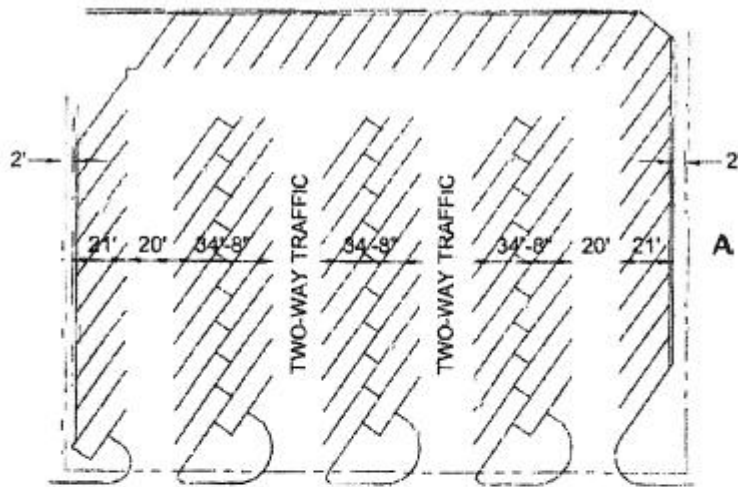
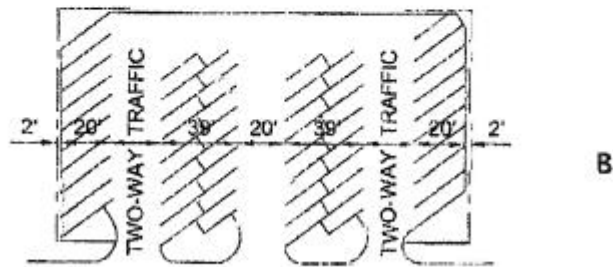


ILLUSTRATION # 10

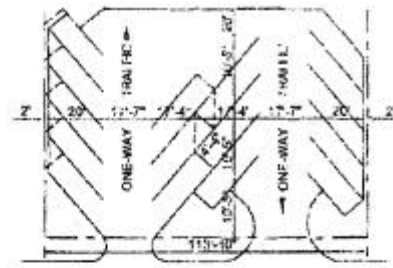


60° LAYOUT WITH TWO-WAY TRAFFIC

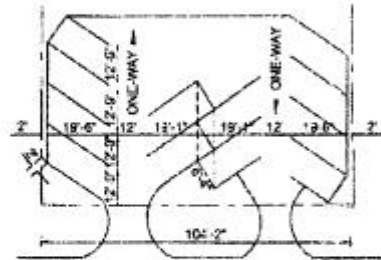


45° LAYOUT WITH TWO-WAY TRAFFIC

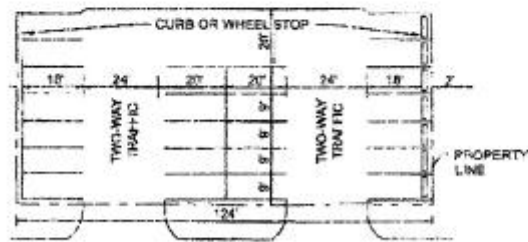
ILLUSTRATION # 11



60° LAYOUT WITH ONE-WAY TRAFFIC



45° LAYOUT WITH ONE-WAY TRAFFIC



90° LAYOUT

ILLUSTRATION # 11 CONTINUED

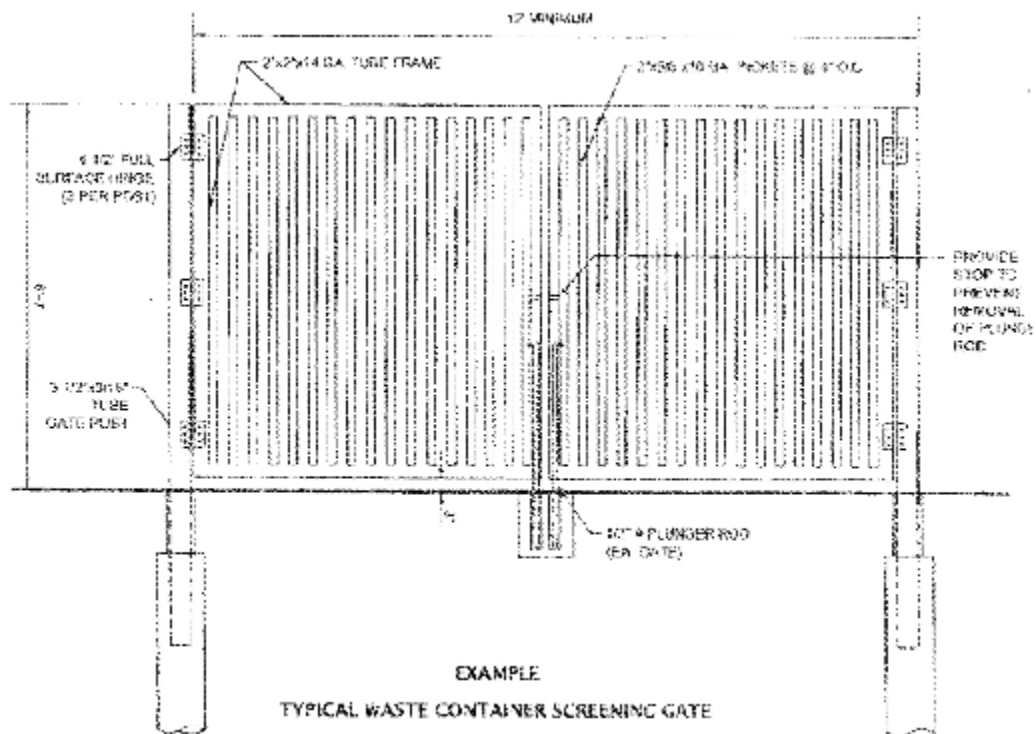
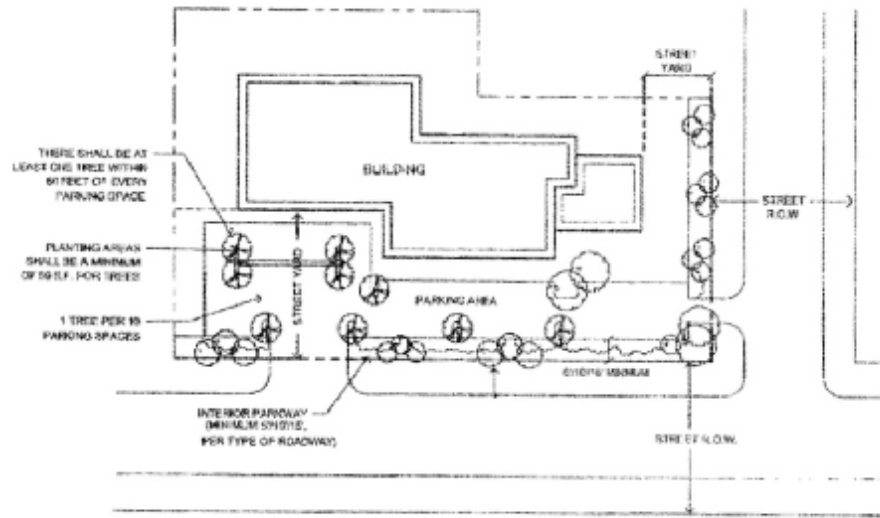


ILLUSTRATION # 12



ILLUSTRATION # 13



LANDSCAPE REQUIREMENTS
EXAMPLE

ILLUSTRATION # 14

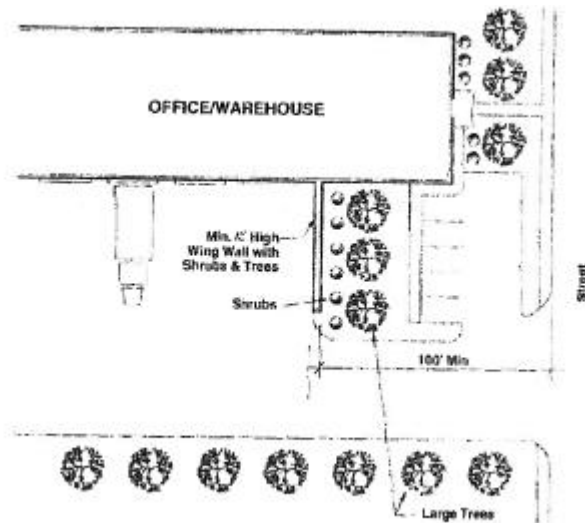
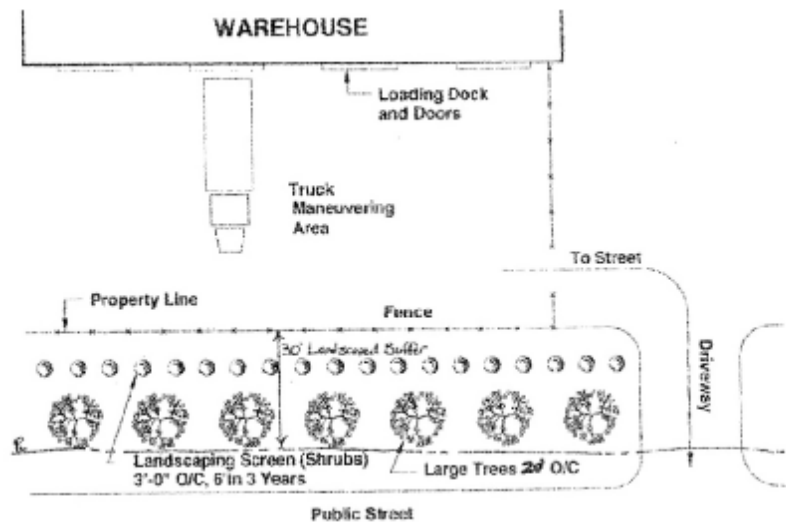


ILLUSTRATION # 15



(2006 Code, ch. 86)

EXHIBIT A. OFFICIAL ZONING MAP

Editor's note—The zoning map is not printed herein, but is available for public inspection at the city offices.

EXHIBIT B. PROPERTIES REZONED

Editor's note—The list of rezoned properties is not printed herein, but is available for public inspection at the city offices.

APPENDIX A

FEE SCHEDULE

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The following schedule of fees shall apply to the permits, licenses, services and programs provided by the city. In the occasion the city must hire an outside service or consultant to perform any of these services or any unlisted service, the city may charge the applicant 100% of the outside service or consultant charges including actual costs, administrative and overhead costs.

ARTICLE A1.000 MISCELLANEOUS FEES

Sec. A1.001 City payment charges

- (a) \$35.00 for any returned check.
- (b) \$2.00 for each online and telephone credit card payment for municipal court and building permits.

(Ordinance 13-05-949, sec. 2.400, adopted 5/7/13)

Sec. A1.002 Notary charges

(a) Texas Government Code Ann. sec. 406.024 sets out the maximum fees a notary public, or their employer, may charge for notary public services. A notary public who charges more than the maximum set out below subjects the notary to possible criminal prosecution and suspension or revocation of the notary's notary public commission by the secretary of state's office.

- (b) Notary public may charge the following fees:
 - (1) No charge for signature and seal.
 - (2) No charge for each additional signature.
 - (3) No charge per page for copies of all records or papers in the notary public's office.

(Ordinance 13-05-949, sec. 6.200, adopted 5/7/13)

Sec. A1.003 Police reports

- (a) Additionally, a charge of \$15.00 per hour, plus 20% personnel charge, may apply to any request requiring extensive time and research.
- (b) Accident reports: \$6.00.
- (c) Computer-generated offense reports (over 10 pages): \$0.10 per page.
- (d) Local background check: \$10.00.
- (e) Fingerprinting fee: \$10.00.

(Ordinance 13-05-949, sec. 6.400, adopted 5/7/13)

Sec. A1.004 Public information requests

(a) The city will follow the rates allowed by the state, TAC section 70.3, the Charges for Providing Copies of Public Information, when the city has the ability to reproduce those items in-house. All other items in which the city must hire outside service will be charged at 100% of actual cost.

- (1) 8-1/2" x 11" and 8-1/2" x 14", black & white, photocopy: \$0.10 per page.

- (2) 8-1/2" x 11" and 8-1/2" x 14", color, photocopy: \$0.75 per page.
- (3) 11" x 17", black & white, photocopy: \$0.50 per page.
- (4) All other sizes, black & white and/or color, photocopy: 100% of outside service.
- (b) The following is a summary of the charges for copies of public information that have been established:
 - (1) Standard paper copy: \$0.10 per page.
 - (2) Nonstandard-size copy:
 - (A) Magnetic tape:
 - (i) 4 mm: \$13.50 each.
 - (ii) 8 mm: \$12.00 each.
 - (iii) 9-track: \$11.00 each.
 - (B) Data cartridge:
 - (i) 2000 Series: \$17.50 each.
 - (ii) 3000 Series: \$20.00 each.
 - (iii) 6000 Series: \$25.00 each.
 - (iv) 9000 Series: \$35.00 each.
 - (v) 600A: \$20.00 each.
 - (C) Tape cartridge:
 - (i) 250 MB: \$38.00 each.
 - (ii) 525 MB: \$45.00 each.
 - (D) Audiocassette: \$1.00 each.
 - (E) Oversized paper copy: \$0.50 each.
 - (F) Mylar (36-inch, 42-inch, and 48-inch):
 - (i) 3 mil: \$0.85/linear foot.
 - (ii) 4 mil: \$1.10/linear foot.
 - (iii) 5 mil: \$1.35/linear foot.
 - (G) Blue line/blueprint paper (all widths): \$0.20/linear foot.
 - (H) Digital video disk (DVD): \$3.00.

- (3) Personnel charge:
 - (A) Programming personnel: \$26.00 per hour.
 - (B) Other personnel: \$15.00 per hour.
- (4) Overhead charge: 20% of personnel charge.
- (5) Microfiche or microfilm charge:
 - (A) Paper copy: \$0.10 per page.
 - (B) Fiche or film copy: Actual cost.
- (6) Remote document retrieval charge: Actual cost.
- (7) Computer resource charge:
 - (A) Mainframe: \$10.00 per minute.
 - (B) Midsize: \$1.50 per minute.
 - (C) Client/server: \$2.20 per hour.
 - (D) PC or LAN: \$1.00 per hour.
- (8) Miscellaneous supplies: Actual cost.
- (9) Postage and shipping charge: Actual cost.
- (10) Photographs: Actual cost.
- (11) Other costs: Actual cost.
- (12) Outsourced/contracted services: Actual cost.
- (13) No sales tax: No sales tax shall be applied to copies of public information.

(Ordinance 13-05-949, sec. 7.100, adopted 5/7/13)

Sec. A1.005 Nuisance abatement

Mowing and clearing of acreage: Administrative fee of \$200.00 plus contractor fee for mowing. (Ordinance adopting 2015 Code)

ARTICLE A2.000 MUNICIPAL COURT FEES

Sec. A2.001 Municipal court fees

- (a) Court security fee: \$3.00 per conviction.
- (b) Court technology fee: \$4.00 per conviction.

(c) Court juvenile case manager fee: \$5.00 per conviction.

(Ordinance 13-05-949, sec. 6.100, adopted 5/7/13)

ARTICLE A3.000 PARKS AND RECREATION FEES

Sec. A3.001 Parks and recreation usage fees

(a) Fee waiver. The city manager is authorized to waive any fee contained in this section which is determined by the city manager to be in the best interest of the city.

(b) Community use fees for private events, all facilities except the Murphy Central Park Amphitheatre. The city may levy and collect a fee for community meeting rooms.

(1) Community Center meeting rooms (Rooms 117 or 118).

Fee Type	City Fee
Deposit	\$100.00
Nonrefundable administrative fee	\$25.00
Resident	\$20.00/hr during operating hours \$40.00/hr after hours
Nonresident	\$40.00/hr during operating hours \$60.00/hr after hours
Nonprofits	\$10.00/time block during operating hours

(2) Community Center meeting rooms (Rooms 117 and 118).

Fee Type	City Fee
Deposit	\$100.00
Nonrefundable administrative fee	\$25.00
Resident	\$40.00/hr during operating hours \$60.00/hr after hours
Nonresident	\$60.00/hr during operating hours \$80.00/hr after hours
Nonprofits	\$20.00/time block during operating hours

(3) Community Center gymnasium.

Fee Type	City Fee
Deposit	\$100.00
Nonrefundable administrative fee	\$25.00
Resident	\$50.00/hr during operating hours \$75.00/hr after hours
Nonresident	\$70.00/hr during operating hours \$100.00/hr after hours
Nonprofits	\$50.00/time block during operating hours

(4) Murphy Activity Center.

Fee Type	City Fee
Deposit	\$100.00
Nonrefundable administrative fee	\$25.00

Fee Type	City Fee
Resident	\$75.00/hr during operating hours \$100.00/hr after hours
Nonresident	\$100.00/hr during operating hours \$150.00/hr after hours
Nonprofits	\$50.00/time block during operating hours

(5) Park pavilions.

Fee Type	City Fee
Resident	\$25.00 for two hours, then \$10.00/hour
Nonresident	\$50.00 for two hours, then \$10.00/hour

(6) Activity registration.

Fee Type	City Fee
Resident	No fee
Nonresident	\$5.00 per activity registration

(7) Athletic field reservations.

Resident	No fee
Nonresident	Team must have 40% Murphy residents

(8) Park reservations.

50 or more guests	Police security - \$25.00 per hour, 4-hour minimum

(c) Community use fees for private events, Murphy Central Park Amphitheater only.

- (1) Security deposits. A security deposit will be required for all reservations. Any unused portions of the deposit will be refunded if all the terms of the contract have been met, all facilities are left in good conditions and cancellation procedures have been followed.

(2) Security deposit rates.

Expected Number of Attendants	<250	250-750	750 - <1200	1200- <1800	1800- <2500	2500+
Rate	\$100	\$300	\$500	\$700	\$1,000	\$1,500

- (3) Rental fees. In addition to the base rental fee the city will require the lessee to pay the city 10% of the gross ticket sales, less all the applicable taxes that shall not exceed \$3,000.00.

(4) Rental rates (per day).

CLASS	Monday - Thursday	Friday/Saturday/Sunday
Private (A)	\$500	\$650
Benefit (B)*	\$250	\$350
Commercial (C)	\$1,000	\$1,200

- (A) Class A (Private). For private use such as weddings, reunions, etc. The general public will not be permitted and there will be no advertising through public media.

- (B) Class B (Benefit). Use by a person, civic organization, or education institution possessing a non-profit association state charter who sponsors an event of community interest. This type of event shall be free and open to the public. Donations shall be permitted. Any fundraising will be permitted in which at least 75% of the funds raised are donated to the organization. The city may waive fees to a cost base only at the city's discretion.
- (C) Class C (Commercial). Use by an individual or company who is either holding the event for promotional purposes and/or subsequent profit making, or for the purpose of furthering the company/profession and/or profit making. Most concerts fall under this classification.
- (5) Service personnel fees (staff costs). Events may be required to, or opt to, have city staff present at approved events. Fees vary depending on the amount of personnel the department manager determines to be necessary. Volunteers or internal employees can be taken into consideration.
- (6) Ticket information, sales and admission fees. There are three options for admission: free and to the public; by invitation only; or tickets available for purchase. The lessee may charge an admission fee to the event. If so, the city receives 10% of gross ticket sales or to pay a flat fee. Ticket sales shall not exceed the actual number of available seating. Admission to ticketed events can be monitored with the setup of a temporary perimeter or monitoring ticketed guests with the use of special wristbands.
- (A) Gross ticket sales option. The city receives 10% of gross ticket sales.
- (B) Flat rate admission option.

Expected Number of Attendants	<250	250-750	750 - <1200	1200- <1800	1800- <2500	2500+
Rate	\$150	\$500	\$1,000	\$1,500	\$2,150	\$3,000

- (7) Food, beverage and souvenir sales fees. If the lessee wishes to sell items on the premises, a vendor permit must be obtained. Vendors are responsible for their own booth, equipment and labor. Vendor locations must be approved by the department manager. The city reserves the right to collect an additional fee of 10% of all gross sales or a flat rate to be determined at the time of application from the vendor.
- (8) Refunds. Full refunds will require advanced written notice at least 90 days prior to the rental date. If the event is cancelled less than 90 days prior to the rental date, any fees and deposits will be forfeited by the lessee. If the event cannot be held or rescheduled due to weather, the lessee is still responsible for all incurred expenses and a refund of the rental fee may be available after all other fees are paid. The city will retain a \$50.00 application fee from the deposit refund for any cancellation.

(Ordinance 13-05-949, sec. 6.300, adopted 5/7/13; Ordinance 14-01-968, secs. 2, 3, adopted 1/21/14)

ARTICLE A4.000 ANIMAL CONTROL FEES

Sec. A4.001 Animal control fees

- (a) Animal impound*:
- (1) 1st impound: \$50.00.
- (2) 2nd impound: \$75.00.

- (3) 3rd impound: \$100.00.
- (4) 4th impound: \$125.00.
- (b) Daily handling fee: \$7.50 per day.
- (c) Pet registration:
 - (1) Sterilized: \$7.50 per year.
 - (2) Non-sterilized: \$12.50 per year.
- (d) Dangerous animal registration, per animal: \$50.00 per year.
- (e) Livestock permit, annual permit per owner: \$35.00 per year.
- (f) Dog and cat adoption fee, not sterilized: \$85.00 per animal.
- (g) Dog and cat adoption fee, already sterilized: \$45.00.
- (h) Standard shipping for rabies testing: \$30.00 per animal.
- (i) Quarantine fee, per animal: \$100.00.
- (j) Microchipping fee, per animal: \$20.00.
- (k) Euthanasia fee, per animal: \$25.00.
- (l) Disposal fee, per animal: \$25.00.

*These fees are above and beyond any citation fees related to violations of city ordinance or state laws.

(Ordinance 13-05-949, sec. 1.400, adopted 5/7/13; Ordinance adopting 2015 Code)

ARTICLE A5.000 BUSINESS RELATED FEES

Sec. A5.001 Alarm permits

(a) An alarm permit must be obtained before inspection of the alarm system can be scheduled. The residential alarm permit will be automatically billed on the monthly statement when submitting a new alarm permit and subsequently on the annual renewal date.

- (1) Residential, new and renewal, annually: \$25.00.
- (2) Commercial, new and renewal, annually: \$50.00.
- (3) Late renewal fee, after 10 days late: \$10.00.
- (b) False alarms:
 - (1) \$50.00 for each false alarm after three (3).
 - (2) \$75.00 for each false alarm after eight (8) or more.
 - (3) No false alarm fee for a newly installed system for the first thirty (30) days.

(c) Permit holder or emergency contact person fails to respond to scene and the premises are secured by city representatives: \$50.00.

(d) Service fee when alarm system company relays incorrect permit number with alarm notification to city: \$50.00.

(1993 Code, secs. 98.04, 98.05; 2006 Code, secs. 6-4, 6-5; Ordinance 375, secs. 1-4, 1-5 adopted 4/3/95; Ordinance 13-05-949, sec. 1.100, adopted 5/7/13)

Sec. A5.002 Alcoholic beverage permits

The city may levy and collect a fee not to exceed one-half of the state fee for each license issued for premises located within the city. License fee(s) for businesses located within the city and who hold a license from the Texas Alcoholic Beverage Commission in accordance with the 2009 TABC chapter 26 and chapter 28:

All renewals are on a bi-annual basis.

Permit Code	Type of Permit	Issuance	State Fee	City Fee
BG	Wine & Beer Retailer's	Bi-annually	\$350.00	\$175.00
BQ	Wine & Beer Retailer's Off-Premise	Bi-annually	\$120.00	\$60.00
LB	Mixed Beverage Late Hours	Bi-annually	\$300.00	\$150.00
MB	Mixed Beverage Permit	Original	\$6,000.00	N/A
		1st renewal	\$4,500.00	N/A
		2nd renewal	\$3,000.00	\$1,500.00
		3rd and all subsequent renewals	\$1,500.00	\$750.00
RM	Mixed Beverage Restaurant with Food & Beverage	Original	\$6,000.00	N/A
		1st renewal	\$4,500.00	N/A
		2nd renewal	\$3,000.00	\$1,500.00
		3rd and all subsequent renewals	\$1,500.00	\$750.00

(Ordinance 13-05-949, sec. 1.200, adopted 5/7/13)

Sec. A5.003 Amusement and entertainment permits

Type	Comments	Permit Period	Fee
(a) Amusement buildings	Inspect for fire and public safety	Until revoked	\$50.00
(b) Places of assembly	Inspect for fire and public safety	Until revoked	\$50.00
(c) Carnivals and fairs	Inspect for fire and public safety	2 weeks	\$50.00
(d) Exhibits and trade shows	Inspect for fire and public safety	2 weeks	\$50.00
(e) Pyrotechnic special effects	Inspect for fire and public safety	1 day	\$200.00

(Ordinance 13-05-949, sec. 1.300, adopted 5/7/13)

Sec. A5.004 Food, food establishments, and food vendors permit and inspection fees

- (a) Mobile catering vendors, annual permit: \$300.00/hot, \$200.00/cold.
- (b) Temporary event vendor, 1 day: \$100.00.
- (c) Convenience stores, annual permit: \$150.00.

- (d) Grocery stores, annual permit: \$500.00.
- (e) Restaurants/cafes, annual permit, \$350.00.
- (f) Other facilities serving the public food and/or beverage, annual permit: \$150.00.
- (g) Health plan review fee: \$300.00.

(Ordinance 13-05-949, sec. 4.100, adopted 5/7/13)

Sec. A5.005 Solicitor permits and licensing

Door-to-door solicitation - valid for 3 months from date of issue:

- (1) \$200.00 company registration and one agent.
- (2) \$75.00 registration per each additional agent.

(Ordinance 13-05-949, sec. 8.200, adopted 5/7/13)

Sec. A5.006 Sexually oriented businesses

- (a) Nonrefundable license application fee: \$500.00.
- (b) Nonrefundable application processing fee: \$60.00.
- (c) Replacement of personal card or on-site card: \$35.00.
- (d) Reinstatement fee in lieu of suspension: \$500.00.

(2006 Code, secs. 22-41, 22-49, 22-62; Ordinance 10-09-853, sec. 2, adopted 9/7/10)

ARTICLE A6.000 EMERGENCY MEDICAL SERVICES FEES

Sec. A6.001 Emergency medical services

- (a) Base fee resident: \$600.00.
- (b) Base fee nonresident: Resident + 15% = \$690.00.
- (c) BLS supplies: \$125.00.
- (d) ALS supplies: \$250.00.
- (e) Treatment/no transport: \$100.00.
- (f) Mileage: \$10.00/loaded mile.
- (g) Oxygen: \$70.00.

(Ordinance 13-05-949, sec. 3.100, adopted 5/7/13)

ARTICLE A7.000 FIRE AND SAFETY PERMITS AND INSPECTIONS

Sec. A7.001 Fire alarm, fire line, and sprinkler plan review fees

(a) The fees below include plan review, construction permit, initial inspection and one reinspection.

Initial installation/finish out of fire alarm	1 - 100,000 sq. ft. 100,001 - 300,000 sq. ft. 300,001 + sq. ft.	\$0.035 sq. ft. (\$60.00 minimum) Add \$0.017 sq. ft. Add \$0.01 sq. ft.
Initial installation/finish out of fire sprinkler	1 - 100,000 sq. ft. 100,001 - 300,000 sq. ft. 300,001 + sq. ft.	\$0.035 sq. ft. (\$60.00 minimum) Add \$0.017 sq. ft. Add \$0.01 sq. ft.
Underground hydro and flush	Per system	\$50.00
Fire pump	Per system	\$300.00
Automatic extinguishing system (hood)	Per system	\$75.00
Standpipe system	Per system	\$300.00
Re-stamp, provide lost plans or addend a project after permit has been issued	Per incident	\$30.00
Work started without a permit		Permit fee \$ x 2

(b) The fees above include the plan review and one visual inspection and one hydrostatic test of the fire sprinkler supply line or fire sprinkler system in the case of hydraulic systems or one visual inspection and one system test of the fire alarm system in the case of alarms.

(c) Plans that are rejected after the initial review may be resubmitted with corrections one time without penalty. Any subsequent reviews will incur a fee equal to the appropriate fee from the schedule above plus an additional fee of \$50.00.

(Ordinance 13-05-949, sec. 3.200, adopted 5/7/13)

Sec. A7.002 Fire and safety inspection fees

Fees for follow-up inspections after initial inspection and reinspection shall be based upon the amount of interior square footage of the building premises, or portions thereof that are inspected, such fees set as follows:

(1) First follow-up inspection fee schedule:

Interior Square Footage	Fee
1 to 3,000	\$25.00
3,001 to 6,000	\$50.00
6,001 to 12,000	\$75.00
12,001 to 18,000	\$100.00
18,001 to 24,000	\$150.00
24,001 to 100,000	\$200.00
Over 100,000	\$250.00

(2) All subsequent follow-up inspection:

Interior Square Footage	Fee
1 to 3,000	\$50.00
3,001 to 6,000	\$75.00
6,001 to 12,000	\$100.00
12,001 to 18,000	\$125.00

Interior Square Footage	Fee
18,001 to 24,000	\$175.00
24,001 to 100,000	\$225.00
Over 100,000	\$275.00

(Ordinance 13-05-949, sec. 3.300, adopted 5/7/13)

Sec. A7.003 Fire and safety permits

Fire and safety permit fees:

Type	Comments	Permit Period	Fee
(1) Aerosol products	Manufacture, store or handle	Until revoked	\$100.00
(2) Amusement buildings	Special amusement buildings	Until revoked	\$100.00
(3) Automatic fire extinguishing systems		No limit	\$100.00
(4) Aviation facilities	Aircraft service or repair	Until revoked	\$100.00
(5) Battery systems	Lead acid systems 50 gal.+	Until revoked	\$100.00
(6) Cellulose nitrate film	Store, handle, or use	Until revoked	\$100.00
(7) Combustible dust producing operations	Inspect for fire safety	2 weeks	\$100.00
(8) Compressed gases	Limits set by fire code	1 year	\$100.00
(9) Covered mall buildings	Per display as per fire code	Quarter	\$100.00
(10) Cryogenic fluids		1 year	\$100.00
(11) Cutting and welding operation		1 year	\$100.00/site
(12) Dry cleaning plants		Until revoked	\$100.00
(13) Exhibits and trade shows		2 weeks	\$100.00
(14) Explosives		2 weeks	\$100.00
(15) Fire hydrants and valves	Installation inspection	Until revoked	\$100.00
(16) Fire pumps and equipment		No limit	\$100.00
(17) Flammable and combustible liquids		1 year	\$100.00/site
(18) Floor finishing		1 month	\$100.00
(19) Fruit and crop ripening		Until revoked	\$100.00
(20) Fumigation		1 day	\$100.00
(21) Hazardous production materials		1 year	\$100.00
(22) High piled storage		Until revoked	\$100.00
(23) Hot work operations		1 week to 1 year	\$100.00
(24) Industrial ovens		1 year	\$100.00
(25) Liquid or gas fueled vehicles in assembly buildings		1 year	\$100.00
(26) LP-gas		1 year	\$100.00
(27) Lumber yards		1 year	\$100.00
(28) Magnesium		1 year	\$100.00
(29) Miscellaneous combustible storage		Until revoked	\$100.00
(30) Motor fuel dispensing facilities		1 year	\$100.00
(31) Outdoor/open burning		1 day	\$1,000.00/site
(32) Open flames and candles		1 year	\$100.00
(33) Open flames and torches		1 day - 1 year	\$100.00
(34) Organic coatings		1 year	\$100.00
(35) Pyroxylin plastics		1 year	\$100.00
(36) Refrigeration equipment		Until revoked	\$100.00
(37) Repair garages		1 year	\$100.00

Type	Comments	Permit Period	Fee
(38) Rooftop heliports		1 year	\$100.00
(39) Scrap tire product		1 year	\$100.00
(40) Spraying or dipping		1 year	\$100.00
(41) Temporary membrane structures, tents or canopies - greater than 200 sq. ft.		2 weeks	\$100.00
(42) Waste handling		1 year	\$100.00
(43) Wood products		Until revoked	\$100.00
(44) Woodworking plants		1 year	\$100.00
(45) Tank or fuel line repair (LP-gas or flammable/combustible liquids)	Per location		\$250.00
(46) Tank or fuel line removal (LP-gas or flammable/combustible liquids)	Per location		\$250.00
(47) Environmental site assessment	Per each request		\$75.00

(Ordinance 13-05-949, sec. 3.400, adopted 5/7/13)

Sec. A7.004 Hazardous material incident

Fire department services related to hazardous material incident: \$400.00 per hour for each engine or truck company and \$200.00 per hour for each medical unit or utility vehicle. (1993 Code, sec. 99.03; 2006 Code, sec. 82-403; Ordinance 408, sec. 3, adopted 4/7/97)

ARTICLE A8.000 UTILITY RATES AND CHARGES

Sec. A8.001 Solid waste collection and disposal

(a) Residential pickup.

- (1) Cart fee (95-gallon trash and 95-gallon recycling bin): \$12.62*/mo.
- (2) Additional cart fee: \$7.80/mo.
- (3) Unusual accumulations (4 - 12 cubic yards): \$25.00/lift.
- (4) Special collections (12+ cubic yards): \$125.00/hr + \$25.00/ton.
- (5) Unscheduled household hazardous waste/e-waste collection: \$125.00 call out + cost of disposal.

*5% franchise fee will be added to the cart fee (\$12.62 + \$0.63 = \$13.25)

(b) Commercial pickup.

- (1) For the weekly manual or automated solid waste collection:
 - (A) Commercial or industrial unit utilizing one (1) polycart: \$24.50/mo.
 - (B) Commercial or industrial unit utilizing two (2) polycarts: \$32.30/mo.
 - (C) Commercial or industrial unit utilizing three (3) polycarts: \$40.10/mo.

- (2) For the weekly collection of recyclable materials:
- (A) Commercial or industrial unit utilizing one (1) polycart: \$5.00/mo.
 - (B) Commercial or industrial unit utilizing one (1) 6-yard dumpster: \$50.00/mo.
 - (C) Commercial or industrial unit utilizing one (1) 8-yard dumpster: \$65.00/mo.
 - (D) Commercial or industrial unit utilizing a recycling compactor: \$195.00/haul.
- (3) For the solid waste collection services to commercial or industrial units requiring the use of front-load containers, the contractor shall charge per month, for each container utilized, the following rates (extra lifts will be charged per container, per extra lift):

Commercial Rate Schedule
Lifts Per Week - Monthly Service Rates

Container Size	1	2	3	4	5	6	Extra Lifts
2 cubic yard	\$66.15	\$116.10	\$163.35	\$197.10	\$244.35	\$291.60	\$30.00
3 cubic yard	\$76.65	\$137.70	\$191.70	\$245.70	\$313.20	\$380.70	\$35.00
4 cubic yard	\$99.90	\$174.15	\$248.40	\$322.65	\$396.90	\$471.15	\$40.00
6 cubic yard	\$120.15	\$207.90	\$295.65	\$383.40	\$471.15	\$558.90	\$45.00
8 cubic yard	\$140.40	\$234.90	\$337.74	\$450.32	\$562.90	\$625.48	\$50.00

- (4) The foregoing rates apply to all commercial and industrial units that are located within the city's corporate limits and billed by the city for water and sewer services.

- (c) Roll-off containers. Subject to adjustment by the contractor, the contractor shall charge for each roll-off utilized the following fees:

Roll-Off Rate Schedule

Container Size	Roll-Off Open Tops			
	Haul	Daily Rent	Disposal	Delivery/ Exchange Fee
20 cubic yard	\$230.00	\$3.00	\$35.00 per ton	\$75.00
30 cubic yard	\$230.00	\$3.00	\$35.00 per ton	\$75.00
40 cubic yard	\$230.00	\$3.00	\$35.00 per ton	\$75.00

- (d) Compactors. For the solid waste collection services to commercial or industrial units requiring the use of compactors, the contractor shall charge the following rates:

Compactor Rate Schedule

Container Size	Compactors	
	Haul	Disposal
6 cubic yard	\$121.50	(included)
8 cubic yard	\$139.50	(included)
20 cubic yard	\$230.00	\$35.00 per ton
30 cubic yard	\$230.00	\$35.00 per ton
35 cubic yard	\$230.00	\$35.00 per ton
40 cubic yard	\$230.00	\$35.00 per ton

(Ordinance 13-05-949, sec. 8.300, adopted 5/7/13)

Sec. A8.002 Stormwater fee

Stormwater fee: \$3.00 per month per water meter. (Ordinance 13-05-949, sec. 8.400, adopted 5/7/13)

Sec. A8.003 Water and sewer usage rates

(a) Water service.

- (1) \$60.00 new residential and commercial customer deposit.
- (2) \$100.00 new renter customer deposit.
- (3) \$100.00 for builder's new construction deposit.
- (4) Monthly base meter fee:

(A) Base meter charge:

Meter Size	Charge
3/4 inch	\$20.00
1 inch	\$33.00
1-1/2 inch	\$67.00
2 inch	\$107.00
3 inch	\$200.00
4 inch	\$333.00

Larger meters will be charged \$15.00 times the living unit equivalent according to the water and wastewater impact fee update.

(B) Volumetric water rate (per 1,000 gallons):

Gallons	City	NTMWD	Total
0 - 15,000	\$1.69	\$2.11	\$3.80
15,001 - 30,000	\$1.95	\$2.11	\$4.06
30,001 - 45,000	\$2.24	\$2.11	\$4.35
45,001 - 60,000	\$2.57	\$2.11	\$4.68
60,001+	\$2.96	\$2.11	\$5.07

*NTMWD - North Texas Municipal Water District fees

- (5) \$10.00 for a meter re-read when there is no problem found.
- (6) A leak credit will be applied after a customer presents proof of repair of leak within ninety (90) days. An average charge will be applied based on water usage two months prior to the month of leak and one month after the leak. This average will apply to water usage only and leak credit shall be applied only once per 12-month period as appropriate.
- (7) 10% penalty will be applied to the account balance if payment in full is not received within 20 days from the billing date.
- (8) \$30.00 service fee will be applied to the account balance if payment in full is not received within 30 days from the billing date. All disconnections will take place on the following Wednesdays.
- (9) Disconnect fees will be waived in the month of December.

- (10) \$50.00 service fee will be applied during after-hours, weekends and holidays with documentation that the bill has been paid at the city online website or placed in after-hours drop box (if payment is not in night box prior to next business day there will be assessed an additional \$30.00 service fee for another disconnection).
- (11) At the discretion of the billing manager, a one-time courtesy adjustment of late penalty or \$30.00 service fee can be waived if account is in good standing for a period of 12 months straight.
- (12) At the discretion of the billing manager, adjustments of late penalty and service fee can be waived for uncontrollable circumstances with proper documentation from the resident. Examples include: hospitalization, illness, family death, and/or other qualifying events.
- (13) If any due date falls on a weekend or holiday, payments will be due on the next city business day.

(b) Irrigation rates.

- (1) Irrigation base charge:

Meter Size	City Portion
3/4"	\$20.00
1"	\$33.00
1-1/2"	\$67.00
2"	\$107.00
3"	\$200.00
4"	\$333.00

- (2) Volumetric rate (per 1,000 gallons):

Volumetric Irrigation Rate	City Portion	NTMWD Portion	Total
0-15,000	\$2.02	\$2.11	\$4.13
15,001-30,000	\$2.32	\$2.11	\$4.43
30,001-45,000	\$2.67	\$2.11	\$4.78
45,001-60,000	\$3.07	\$2.11	\$5.18
60,000 +	\$3.53	\$2.11	\$5.64

(c) Wastewater service.

- (1) Base meter charge:

Type	Charge
Residential	\$18.00
Commercial	\$18.00
HOA	\$18.00
Church	\$18.00

- (2) Volumetric wastewater rates (per 1,000 gallons):

Type	City	NTMWD	Total
Residential	\$0.76	\$2.26	\$3.02
Commercial	\$0.76	\$2.26	\$3.02
HOA	\$0.76	\$2.26	\$3.02
Church	\$0.76	\$2.26	\$3.02

- (3) Volumetric rate (per 1,000 gallons) based on 3-month (November, January and February) winter average of water usage for residential only.
 - (4) The city will use a winter averaging for the purpose of calculating sewer charges on customer's utility bill. The new sewer charges will be based on the water consumption average for three months (November, January and February). Average consumption is applied against current sewer rates and becomes the constant sewer charge for 12 months beginning with each April 1st.
 - (5) New customers to the system will be charged the city-wide residential average usage of 9,400 gallons until their own independent winter average has been established.
- (d) Water meter fees.
- (1) 3/4 inch (residential standard): \$330.00.
 - (2) 1 inch: \$420.00.
 - (3) 1-1/2 inch: \$950.00.
 - (4) 2 inch turbine: \$1,125.00.
 - (5) 2 inch compound: \$1,615.00.
 - (6) A price quote will be given by the public works department for meters over 2 inches.
- (e) Sewer connection fees.
- (1) 4 inch tie-in: \$150.00
 - (2) 6 inch tie-in: \$300.00
 - (3) 8 inch tie-in: \$500.00
- (f) Sewer taps and water taps.
- (1) 100% of cost for installation plus sewer connection fee plus meter fee .
- (g) Hydrant meter rental.
- (1) Deposit: \$1,500.00, refundable upon return of meter in working condition.
 - (2) Water fee: \$100.00 + \$3.00 per 1,000 gallons used.
 - (3) Water readings will be given to the city customer service department on a weekly basis or a \$500.00 penalty may result.

(Ordinance 13-05-949, sec. 9.100, adopted 5/7/13; Ordinance 13-09-959 adopted 9/17/13; Ordinance 14-07-980 adopted 7/15/14; Ordinance 14-10-987 adopted 10/7/14)

Sec. A8.004 Drought restriction violations

Reconnection charge when water service is discontinued for violation of drought contingency and water emergency response plan: \$50.00. (2006 Code, sec. 82-376; Ordinance 11-10-897, sec. 2, adopted 10/18/11; Ordinance 14-03-973, sec. 2, adopted 3/18/14)

Sec. A8.005 Individual sewage disposal system permit

Application fee: \$300.00. (Ordinance adopting 2015 Code)

Sec. A8.006 Water wells

Permit to drill new water well: \$250.00. (Ordinance adopting 2015 Code)

Sec. A8.007 Extension charges

Assessment of pro rata charge; rates:

- (1) Per front foot of the lot or tract of land to which water connections may be made: \$4.75.
- (2) Per front foot of the lot or tract of land to which sanitary sewer connections may be made: \$4.90.

(1984 Code, sec. 3-1-9B; 1993 Code, sec. 51.47; 2006 Code, sec. 82-113; Ordinance 63, sec. 2, adopted 3/25/75)

Sec. A8.008 Water and sewer capital cost and recovery charge

- (a) Commercial, industrial, retail: \$0.50 per square foot of building floor area.
- (b) Single-family subdivision (attached or detached): \$500.00 per lot.
- (c) Patio home or other single-family (attached or detached): \$400.00 per dwelling unit.
- (d) Duplex: \$1,000.00 per lot.
- (e) Apartments with individual water and sewer services: \$450.00 per dwelling unit.
- (f) Apartments without individual water and sewer services: \$450.00 per dwelling unit.
- (g) Retirement housing: \$200.00 per dwelling unit.
- (h) Hospital, nursing home: \$100.00 per bed.

(1993 Code, sec. 51.70; 2006 Code, sec. 82-151; Ordinance 238, secs. II, III, adopted 1/6/86)

ARTICLE A9.000 BUILDING, CONSTRUCTION AND DEVELOPMENT RELATED FEES**Sec. A9.001 Building/construction plan review fees**

- (a) Minimum fee for any permit is \$75.00.
- (b) No refunds will be issued for permit fees unless approved in writing by the city manager.
- (c) 100% of any outside service costs will be charged, including but not limited to engineering plan review.
- (d) All fees (building permit, impact fee, meter, etc.) will be paid prior to each building permit being issued.
- (e) Work started without a permit: Permit fee \$ x 2.
- (f) Stop work order - red tag: \$50.00.
- (g) Permit replacement: \$25.00.

- (h) Re-stamp fee: \$30.00/hour (minimum \$30.00).
- (i) Addendum review fee: \$30.00/hour (minimum \$15.00).
- (j) Structure demolition: \$10.00 per \$1,000.00 (minimum \$100.00).
- (k) Interior finish demolition: \$10.00 per \$1,000.00 (minimum \$100.00).
- (l) Structure moving permit: \$10.00 per \$1,000.00 (minimum \$100.00). If applicable, plumbing, electrical and mechanical permits are required. A bond in the amount of \$50,000 shall be required. For further bond information see section 16.04.062 of the Code of Ordinances.
- (m) Fence permit:
 - (1) Residential: \$75.00.
 - (2) Commercial: \$150.00.
- (n) Residential one- and two-family dwellings: new, additions, remodels:
 - (1) Building permit: \$0.64 per total square feet of structure. (minimum \$75.00). Calculate the permit fee by multiplying \$0.64 x square footage.
 - (2) Service inspection certificate fee of \$30.00 for each single-family residence permit.
 - (3) Mechanical, electrical, plumbing fees for trade permits: \$75.00.
 - (4) Residential flatwork, new, addition, alteration permit: \$10.00 per \$1,000.00 valuation of work (\$75.00 minimum).
 - (5) Residential irrigation: \$150.00.
 - (6) Residential accessory structures:
 - (A) Less than 500 square feet: \$75.00.
 - (B) 500 square feet and greater: \$10.00 per \$1,000.00 (minimum \$75.00).
 - (7) New additions, remodels, alterations: \$10.00 per \$1,000.00 valuation of work (minimum \$75.00). Examples: Roof replacement, window replacement, etc.
- (o) Commercial projects: new, addition, alteration, or interior finish and multifamily dwellings:
 - (1) Building permit: \$10.00 per \$1,000.00 valuation of work (minimum \$75.00). Calculate the building permit fee by multiplying the valuation of work by 0.010.
 - (2) When applicable, add mechanical, electrical, plumbing fees to building permit. MEP fees are calculated by the addition of the following for each trade:

Calculated by Square Footage Per Trade	
1 - 3,000 square feet	\$60.00
3,001 - 10,000 square feet	\$80.00
10,001 - 100,000 square feet	\$100.00
Over 100,000 square feet	\$120.00

- (3) Mechanical, electrical, plumbing fees for single trade permits: \$75.00.
- (4) Commercial irrigation: \$250.00.

(Ordinance 13-05-949, sec. 2.100, adopted 5/7/13; Ordinance adopting 2015 Code)

Sec. A9.002 Building, construction and trades inspection fees

- (a) Applicable to fire alarms, fire sprinkler supply line and fire sprinkler reinspections; not applicable to fire safety inspections - see applicable section.
- (b) Reinspection fees are charged for all failed inspections.
- (c) All fees and balances must be paid prior to building final inspection being released:
 - (1) No charge for first failed inspection with the exception of any public works failed inspection; \$100.00 for first and each additional failed inspection.
 - (2) \$100.00 for second and each additional failed inspection.
- (d) Same day inspection called in after cut-off time specified by building department: \$60.00; due prior to inspection request being made.
- (e) Requested same day reinspection: \$100.00 + reinspection fee, due prior to inspection request being made.

(Ordinance 13-05-949, sec. 2.200, adopted 5/7/13)

Sec. A9.003 Certificate of occupancy permits

- (a) A certificate of occupancy is required prior to any commercial structure being occupied by a new business and/or new management.
- (b) A separate permit is required for all certificates of occupancy, fee \$75.00.
- (c) All final inspections are to be completed and inspection fees paid prior to the occupancy inspection.
- (d) Clean and show: \$75.00.
- (e) In-home day care certificate of occupancy: \$75.00.

(Ordinance 13-05-949, sec. 2.300, adopted 5/7/13)

Sec. A9.004 Contractor registration fees

Annual registration is to be renewed upon the expiration date assigned by the city. Photo ID, proof of liability insurance, and any required state-issued licenses must be presented in person by the license holder at the time of registration. Fire alarm installers and fire sprinkler installers who are properly registered with the state fire marshal are exempt from this registration requirement as a matter of state law. Only persons properly registered may submit plans or perform installations of fire alarms or fire sprinklers.

- (1) General contractor: \$100.00.
- (2) Subcontractor: \$100.00.
- (3) Electrical master: \$100.00.

- (4) Plumbing master: Exempt from fee.
- (5) Backflow master: \$100.00.
- (6) Mechanical master: \$100.00.
- (7) Third party energy contractors: \$100.00.

(Ordinance 13-05-949, sec. 2.500, adopted 5/7/13)

Sec. A9.005 Land zoning and development fees

(a) Zoning fees.

- (1) Annexation request (waived if city initiated): \$1,000.00.
- (2) Zoning verification letter: \$50.00.
- (3) Pre-application work session: \$0.00.
- (4) Zoning work session: \$200.00.
- (5) Zoning change request: \$1,000.00.
- (6) Special use permit, residential: \$1,000.00 + \$50.00 per acre.
- (7) Commercial and planned development:
 - (A) Planned development district (new): \$1,000.00 + \$50.00 per acre.
 - (B) Planned development district (amendment of conditions): \$500.00.

(b) Development fees.

- (1) Concept plan: \$500.00.
- (2) Site plan: \$500.00.
- (3) Construction (preliminary plat):
 - (A) Residential: \$500.00 + \$50.00 per acre.
 - (B) Commercial planned development: \$500.00 + \$50.00 per acre.
- (4) Final plat (also known as “as-built” or “record plat”):
 - (A) Residential: \$500.00 + \$50.00 per acre.
 - (B) Commercial and/or planned development: \$500.00 + \$50.00 per acre.
- (5) Replat: Same as final.
- (6) Amended/minor plat: Same as final.
- (7) Vacation of plat: Same as final.

- (8) City tax certificates: Issued by county.
- (9) Street name change (after prel. plat): \$250.00 + cost of new blade.
- (10) Traffic impact analysis review: \$1,000.00 or 100% of consultant cost.
- (11) Parkland dedication: \$1,200.00 per residential lot or acceptable donation of land per park ordinance.
- (12) Sidewalk escrow: Cost per city engineer.
- (13) Street escrow: Cost per city engineer.
- (14) Copies (24" x 36" sheets): \$5.00 per sheet.
- (15) Engineering inspection fees (not to include laboratory tests): 4% of estimated cost of public improvements.
- (16) Engineering plan review: 100% of cost.
- (17) 2-year subdivision maintenance bond: 100% of costs of public improvements.
- (18) Utility inspection fee for after regular business hours and weekends: \$50.00 per hour, per inspector, \$100.00 minimum.
- (19) Appeal boards:
 - (A) Zoning board of adjustment:
 - (i) Residential (homestead): \$200.00.
 - (ii) Residential–other/commercial: \$300.00.
 - (B) Building and fire codes appeal board:
 - (i) Residential: \$200.00.
 - (ii) Commercial: \$300.00.

(Ordinance 13-05-949, sec. 5.100, adopted 5/7/13; Ordinance adopting 2015 Code)

Sec. A9.006 Water and wastewater impact fees

- (a) Impact fees:

Meter Size	Irrigation Water	Wastewater	Domestic Total
3/4 inch	\$883.43	\$2,715.22	\$3,598.65
1 inch	\$2,208.58	\$6,788.05	\$8,996.63
1-1/2 inch	\$4,417.15	\$13,576.10	\$17,993.25
2 inch compound	\$7,067.44	\$21,721.76	\$28,789.20
2 inch turbine	\$8,834.30	N/A	\$8,834.30
3 inch compound	\$14,134.88	\$43,443.52	\$57,578.40
3 inch turbine	\$21,202.32	N/A	\$21,202.32

Meter Size	Irrigation Water	Wastewater	Domestic Total
4 inch compound	\$22,085.75	\$67,880.50	\$89,966.25
4 inch turbine	\$37,104.06	N/A	\$37,104.06
6 inch compound	\$44,171.50	\$135,761.00	\$179,932.50
6 inch turbine	\$81,275.56	N/A	\$81,275.56
8 inch compound	\$70,674.40	\$217,217.60	\$287,892.00
8 inch turbine	\$141,348.80	N/A	\$141,348.80

(b) Domestic meters require both water and wastewater fees to be paid.

(c) Irrigation meters require only a water fee to be paid.

(Ordinance 13-05-949, sec. 5.200, adopted 5/7/13)

Sec. A9.007 Sign permits

Sign permit fees:

- (1) Work started without a permit: Permit fee \$ x 2.
- (2) Permit replacement fee: \$15.00.
- (3) Change sign face: \$175.00.
- (4) Attached sign, non-illuminated: \$200.00.
- (5) Attached sign, illuminated: \$250.00.
- (6) Electronic changeable sign: \$250.00.
- (7) Monument sign, non-illuminated: \$200.00.
- (8) Monument sign, illuminated: \$250.00.
- (9) Movement control sign: \$175.00.
- (10) Builder, developer, or model home sign: \$250.00/valid for 12 months.
- (11) Special purpose temporary freestanding: \$250.00/valid for 12 months.
- (12) Temporary construction sign: \$250.00/valid for 12 months.
- (13) Temporary for sale or lease sign: \$250.00/valid for 12 months.
- (14) Temporary promotional event: \$75.00/valid for 7 days from issue.
- (15) Temporary promotional banner: \$50.00/valid for 7 days from issue.

(Ordinance 13-05-949, sec. 8.100, adopted 5/7/13)

Sec. A9.008 Swimming pool and spa permit

- (a) Work started without a permit: Permit fee \$ x 2.
- (b) Permit replacement: \$25.00.

- (c) In-ground pool and/or spa combination: \$275.00.
- (d) Above-ground pool or spa: \$150.00.
- (e) Public/semi-public pools, annual operation permit: \$200.00.

(Ordinance 13-05-949, sec. 8.500, adopted 5/7/13)

Sec. A9.009 Substandard buildings

Administrative fee when city performs work on substandard building or structure: \$200.00. (2006 Code, sec. 18-543; Ordinance 07-02-713, sec. 2, adopted 2/5/07)

Sec. A9.010 Temporary construction/job trailer permits

- (a) Work started without a permit: Permit fee \$ x 2.
- (b) Permit replacement: \$25.00.
- (c) Trailer permit: \$100.00.
- (d) Temporary electrical: \$75.00.
- (e) Temporary plumbing: \$75.00.

(Ordinance 13-05-949, sec. 8.600, adopted 5/7/13)

Sec. A9.011 Multiple dwelling or rooming house

Operating license: \$200.00. (Ordinance adopting 2015 Code)

Sec. A9.012 Street cuts, excavations, encroachments

Permit for making cut or excavation or installing encroachment on street: \$50.00. (1993 Code, sec. 96.34; 2006 Code, sec. 66-65; Ordinance 342, sec. 3, adopted 11/2/92; Ordinance adopting 2015 Code)

Issue

Discussion with regard to political sign placement.

Staff Resource/Department

Susie Quinn, City Secretary

James Fisher, City Manager

Summary

In the current Code of Ordinances the sign placement for political signs reads as follows:

Sec. 28-10. – Political signs.

Political signs regarding an issue or candidate in an election may be erected on private property without limit as to number; provided, that such signs comply with other applicable requirements of this chapter, and provided further, that the owner or occupant of the property on which sign is displayed shall comply with the following regulations:

- (1) Political signs must comply with state law and are prohibited from:
 - a. Having a surface area greater than 36 square feet.
 - b. Being more than eight feet in height.
 - c. Being illuminated.
 - d. Having moving elements.
 - e. Being located in center medians or within 15 feet of any stop sign/traffic light.
 - f. Being placed on private property without the permission of the property owner.
 - g. All candidate signs must be removed within two days after the conclusion of the election.
 - h. Being placed on City of Murphy owned property except:
 1. Along the south entrance of the Municipal Complex. Signs may be placed on the south side of this driveway beginning ten days prior to early voting. The sign placement area shall be between the Customer Service Utility Payment Drive area and the right-of-way at Murphy Road.
 2. The total sign area of a candidate on City of Murphy owned property may not exceed 16 square feet.
 3. On Election Day, candidates and/or supporters may place campaign signs in the east lawn across from the City Hall south parking lot, as long as they are outside the mandated election boundary lines.
- (2) The city may remove any sign that is not in compliance with any of the above regulations.
- (3) Political signs must comply with all laws and regulations regulating the placement, location, and site visibility triangle which relates to all signage.

(Ord. No. 09-05-797, § 2, 5-18-2009; Ord. No. 12-06-915, § 2, 6-5-2012)

On June 25, 2015, an email was sent regarding the changes to the voting locations in 2016. We have received questions regarding political signage placement for the upcoming 2016 primaries. We are bringing this before you to get input about possibly updating the Ordinance to comply with the new locations and to comply with state law if changes were made in the 83rd or 84th Legislature.

Attachments

Email sent 6-25-15

Susie Quinn

From: Susie Quinn
Sent: Thursday, June 25, 2015 6:41 PM
To: council
Subject: Changes in voting locations
Attachments: image001.jpg

Sent from my iPhone

Dear Council,

I want to let you know that because of the changes in City Hall in the Community Room, the room really isn't large enough for the upcoming 2016 Presidential Election. Because that is a year away, we need to make the change of voting locations now to better educate the public. As Collin County continues to grow, our voting numbers for the County will also grow since they do not have to be Murphy residents in order to vote at our location. The gym at the Community Center meets Collin County requirements for ADA compliance, parking, room for voting machines, etc. We want to move the 2015 November election over to that building but will be using one of the smaller rooms as this November will probably be a light voter turn-out unless you choose to have a bond election and then we would use a larger room. Then in 2016, the March primaries will be held at the same building but probably different rooms. Then in April early voting for the City Election, in May and in June if a run-off Election is necessary can all be held over at the Community Center better preparing everyone for the upcoming 2016 Presidential Election which will need to be held inside the gym. Early voting of course will require us to make changes to the various classes that are held at the Community Center.

Sincerely,

Susie Quinn, TRMC, CMC

City Secretary

**City Council Meeting
September 15, 2015**

Issue

Discussion on the City's Water Utility Bills.

Staff Resource/Department

James Fisher, City Manager

Summary

I have placed this item on the agenda so that staff can have a full discussion regarding the water bills that went out to customers. There have been a lot of concerns regarding the amount used by our customers and whether or not the readings are accurate. The staff is working very hard on addressing all complaints and will continue to do so until we resolve them all.

**City Council Meeting
September 15, 2015**

Issue

Discussion on the Murphy Police Department Body Worn Camera Policy.

Staff Resource/Department

Ed Drain, Interim Police Chief
James Fisher, City Manager

Summary

Attached is the Policy of the MPD Body Worn Camera Policy. The City has received the cameras and are ready to release them to the Officers for their use in field. However, prior to the implementation, staff wanted to brief the City Council on the Policy and advise of their implementation.

Action Requested

Discussion by City Council and address any concerns.

Attachments

Murphy Police Department Body Worn Camera Policy
Senate Bill No. 158



MURPHY POLICE DEPARTMENT DIRECTIVE

SUBJECT: Body Worn Cameras
NUMBER: 7.35.1
EFFECTIVE DATE: September 8, 2015
RELATED STANDARDS:
REVIEW DATE: September 8, 2017
APPROVED: _____
Chief Ed Drain
DATED: 09/08/15

- I. PURPOSE:** To provide guidelines for use of body worn cameras by Murphy Police Department personnel so that officers may reliably record their contacts with the public.
- II. POLICY:** It shall be the policy of this department that officers shall activate the Body Worn Cameras when use is appropriate to the proper performance of their duties, and where the recordings are consistent with this policy and state law.
- III. SERVICE DELIVERY PROTOCOL:**

A. Program Objectives

1. Accurate documentation of events, actions, conditions, and statements made during arrests and other critical incidents, so as to enhance officer reports, collection of evidence and testimony in court; and
2. The enhancement of the department's ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, and evidence for investigative purposes, as well as for officer evaluation and training.

B. Operations Manager Responsibilities

1. The Operations Manager shall serve as the system administrator for the Body Worn Camera system and ensure that each officer, sergeant, and detective is assigned a Body Worn Camera.
2. Body Worn Camera recordings shall be maintained for a minimum of 90 days. Recordings designated as evidence in a criminal case or for administrative investigation/inquiry shall be retained as long as needed beyond 90 days. Unless the Chief of Police determines that the release furthers a law enforcement purpose, a recording documenting an incident that involves the use of deadly force by an officer or that is otherwise related to an administrative or criminal investigation of an officer may not be deleted, or released to the public until all criminal matters have been finally adjudicated and all related investigations have concluded.
3. The Operations Manager shall coordinate with the Information Technology Manager to ensure there is adequate data security and data storage, and a back-up system for Body Worn Camera video and audio data.
4. Officers shall have access to Body Worn Camera recordings of incidents involving the officer before being required to provide a statement regarding the incident.
5. The Operations Manager shall ensure that all officers who wear Body Worn Cameras and other personnel who will come into contact with the video and audio data obtained from the use of Body Worn Cameras have received training approved by the Department.

- C. Supervisors Responsibilities: Supervisors shall conduct random reviews of Body Worn Camera recordings of the officers they supervise at least every 90 days. Supervisors shall document the reviews and note where additional training may needed.

D. Officer Responsibilities

1. Patrol Officers/School Resource Officers will retrieve their assigned body camera at the start of their work shift and will return the camera at the end of their work shift.
2. Officers shall wear their Body Worn Camera when working approved secondary employment assignments. If the officer will be working a secondary employment assignment without responding to the Police Department first, they may take the Body Worn Camera and charger home so that it will be available for use during the secondary employment assignment. Officers shall notify their supervisor whenever taking a Body Worn Camera home under these circumstances.
3. Officers assigned/issued a body worn camera will be responsible for the care and custody of that equipment.
4. Prior to each shift and/or operations involving police duties, officer shall determine whether their Body Worn Camera video and audio is working properly.
 - a. Officers shall report any malfunctions of the recording equipment to their supervisor as soon as possible.
 - b. The supervisor shall notify the Operations Manager of the reported malfunction.
5. Officers shall never attempt any repair of the equipment that would require going into the internal parts of the Body Worn Camera.
6. Officers shall never attempt to alter, erase, modify, or damage any audio/video recording equipment, recordings, software or hardware installed or used on any of the department's computers or servers.

E. Operational Procedures

1. Officers shall wear the body worn camera on their uniform anywhere between the mid shirt pockets and the collar bone area. The body worn camera will face forward and be free of obstructions to allow for the best depiction of the officer's observations as possible.
2. The Body Worn Cameras shall be activated only for law enforcement purposes. Officers will manually activate the Body Worn Camera on each citizen encounter related to traffic stops, enforcement actions, call for police services, or any confrontational encounters. Except where noted in III.E.4 below, the Body Worn Camera shall remain activated until the incident or contact has ended.
3. The Body Worn Camera shall be activated for tactical activities such as searches of buildings/vehicles, searches for suspects, examining crime scenes, transporting prisoners, and when checking buildings during alarm response.
4. Officers may choose not to activate their Body Worn Camera or discontinue a recording currently in progress during non-confrontational encounters with a person, including an interview of a witness or victim. Officers may also turn off their Body Worn Camera where individuals' privacy should be protected and the recording is not needed for evidentiary purposes (Ex: call for service at a hospital where sensitive medical/health information is being discussed).
5. When inside a private residence, officers shall notify occupants that their Body Worn Camera is activated unless it would be impractical to do so, such as during a confrontational situation.

6. Officers are not required to activate the Body Worn Camera when engage in casual conversation with citizens unrelated to enforcement activity or a call for service.
7. If an officer decides that an incident or contact should not be recorded, does not record the entire contact, or interrupts the recording, for any reason, the officer shall articulate on camera why the recording was stopped.
8. An officer who does not activate the Body Worn Camera in response to a call for assistance must include in the incident report or otherwise not in the case file or record the reason for not activating the Body Worn Camera. Any justification for failing to activate the Body Worn Camera because it is unsafe, unrealistic, or impracticable is based on whether a reasonable officer under the same or similar circumstances would have made the same decision.
9. Officers shall only wear Body Worn Camera equipment issued by the Police Department.

IV. RELEASE OF BODY WORN CAMERA RECORDINGS: A member of the public requesting release of Body Worn Camera recordings must submit a written request that includes the date and approximate time of the recording, the specific location of the recording, and the name of one or more persons known to be a subject of the recording.

All release of Body Worn Camera recordings must be in accordance with the provisions of Chapter 1701, Texas Occupation Code and Chapter 552, Texas Government Code. Section 1701.659 of the Texas Occupations Code states that a peace officer or other employee of a law enforcement agency commits a Class A misdemeanor if the officer or employee releases a recording created with a Body Worn Camera without permission of the applicable law enforcement agency.

V. ADMINISTRATIVE REVIEW AND REVISION: Biennially, the Chief of Police shall review the Directive, making any revisions as needed.

V. CLOSING STATEMENT: Violations of this Directive would serve only as grounds for discipline within the Murphy Police Department.

S.B. No. 158

AN ACT

relating to a body worn camera program for certain law enforcement agencies in this state; creating a criminal offense; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1701, Occupations Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. BODY WORN CAMERA PROGRAM

Sec. 1701.651. DEFINITIONS. In this subchapter:

(1) "Body worn camera" means a recording device that is:

(A) capable of recording, or transmitting to be recorded remotely, video or audio; and

(B) worn on the person of a peace officer, which includes being attached to the officer's clothing or worn as glasses.

(2) "Department" means the Department of Public Safety of the State of Texas.

(3) "Private space" means a location in which a person has a reasonable expectation of privacy, including a person's home.

Sec. 1701.652. GRANTS FOR BODY WORN CAMERAS. (a) A police department of a municipality in this state, a sheriff of a county in this state who has received the approval of the commissioners court for the purpose, or the department may apply to the office of the

1 governor for a grant to defray the cost of implementing this
2 subchapter and to equip peace officers with body worn cameras if
3 that law enforcement agency employs officers who:

4 (1) are engaged in traffic or highway patrol or
5 otherwise regularly detain or stop motor vehicles; or

6 (2) are primary responders who respond directly to
7 calls for assistance from the public.

8 (b) The office of the governor shall set deadlines for
9 applications for grants under this chapter.

10 (c) Except as provided by Subsection (d), the office of the
11 governor shall create and implement a matching grant program under
12 which matching funds from federal, state, local, and other funding
13 sources may be required as a condition of the grant. A law
14 enforcement agency that receives a grant under this section is
15 required to match 25 percent of the grant money.

16 (d) The department is eligible for grants under this
17 subchapter but may not be made subject to any requirement for
18 matching funds.

19 (e) The governor's office may conditionally award a grant to
20 a law enforcement agency that has not adopted and implemented the
21 policy under Section 1701.655 or implemented the training required
22 under Section 1701.656, but money may not be disbursed to a law
23 enforcement agency until the agency fully complies with those
24 sections.

25 Sec. 1701.653. REPORTING. (a) As a condition of receiving
26 a grant under this subchapter, a law enforcement agency annually
27 shall report to the commission regarding the costs of implementing

1 a body worn camera program, including all known equipment costs and
2 costs for data storage.

3 (b) The commission shall compile the information submitted
4 under Subsection (a) into a report and submit the report to the
5 office of the governor and the legislature not later than December 1
6 of each year.

7 Sec. 1701.654. INTERAGENCY OR INTERLOCAL CONTRACTS. A law
8 enforcement agency in this state may enter into an interagency or
9 interlocal contract to receive body worn camera services and have
10 the identified operations performed through a program established
11 by the Department of Information Resources.

12 Sec. 1701.655. BODY WORN CAMERA POLICY. (a) A law
13 enforcement agency that receives a grant to provide body worn
14 cameras to its peace officers or that otherwise operates a body worn
15 camera program shall adopt a policy for the use of body worn
16 cameras.

17 (b) A policy described by Subsection (a) must ensure that a
18 body worn camera is activated only for a law enforcement purpose and
19 must include:

20 (1) guidelines for when a peace officer should
21 activate a camera or discontinue a recording currently in progress,
22 considering the need for privacy in certain situations and at
23 certain locations;

24 (2) provisions relating to data retention, including a
25 provision requiring the retention of video for a minimum period of
26 90 days;

27 (3) provisions relating to storage of video and audio,

1 creation of backup copies of the video and audio, and maintenance of
2 data security;

3 (4) guidelines for public access, through open records
4 requests, to recordings that are public information;

5 (5) provisions entitling an officer to access any
6 recording of an incident involving the officer before the officer
7 is required to make a statement about the incident;

8 (6) procedures for supervisory or internal review; and

9 (7) the handling and documenting of equipment and
10 malfunctions of equipment.

11 (c) A policy described by Subsection (a) may not require a
12 peace officer to keep a body worn camera activated for the entire
13 period of the officer's shift.

14 (d) A policy adopted under this section must be consistent
15 with the Federal Rules of Evidence and Texas Rules of Evidence.

16 Sec. 1701.656. TRAINING. (a) Before a law enforcement
17 agency may operate a body worn camera program, the agency must
18 provide training to:

19 (1) peace officers who will wear the body worn
20 cameras; and

21 (2) any other personnel who will come into contact
22 with video and audio data obtained from the use of body worn
23 cameras.

24 (b) The commission, in consultation with the department,
25 the Bill Blackwood Law Enforcement Management Institute of Texas,
26 the W. W. Caruth Jr. Police Institute at Dallas, and the Texas
27 Police Chiefs Association, shall develop or approve a curriculum

1 for a training program under this section.

2 Sec. 1701.657. RECORDING INTERACTIONS WITH THE PUBLIC.

3 (a) A peace officer equipped with a body worn camera shall act in a
4 manner that is consistent with the policy of the law enforcement
5 agency that employs the officer with respect to when and under what
6 circumstances a body worn camera must be activated.

7 (b) A peace officer equipped with a body worn camera may
8 choose not to activate a camera or may choose to discontinue a
9 recording currently in progress for any nonconfrontational
10 encounter with a person, including an interview of a witness or
11 victim.

12 (c) A peace officer who does not activate a body worn camera
13 in response to a call for assistance must include in the officer's
14 incident report or otherwise note in the case file or record the
15 reason for not activating the camera.

16 (d) Any justification for failing to activate the body worn
17 camera because it is unsafe, unrealistic, or impracticable is based
18 on whether a reasonable officer under the same or similar
19 circumstances would have made the same decision.

20 Sec. 1701.658. USE OF PERSONAL EQUIPMENT. (a) If a law
21 enforcement agency receives a grant under this subchapter, a peace
22 officer who is employed by the agency and who is on duty may only use
23 a body worn camera that is issued and maintained by that agency.

24 (b) Notwithstanding any previous policies, an agency may
25 not allow its peace officers to use privately owned body worn
26 cameras after receiving a grant under this subchapter.

27 (c) A peace officer who is employed by a law enforcement

1 agency that has not received a grant or who has not otherwise been
2 provided with a body worn camera by the agency that employs the
3 officer may operate a body worn camera that is privately owned only
4 if permitted by the employing agency.

5 (d) An agency that authorizes the use of privately owned
6 body worn cameras under Subsection (c) must make provisions for the
7 security and compatibility of the recordings made by those cameras.

8 Sec. 1701.659. OFFENSE. (a) A peace officer or other
9 employee of a law enforcement agency commits an offense if the
10 officer or employee releases a recording created with a body worn
11 camera under this subchapter without permission of the applicable
12 law enforcement agency.

13 (b) An offense under this section is a Class A misdemeanor.

14 Sec. 1701.660. RECORDINGS AS EVIDENCE. (a) Except as
15 provided by Subsection (b), a recording created with a body worn
16 camera and documenting an incident that involves the use of deadly
17 force by a peace officer or that is otherwise related to an
18 administrative or criminal investigation of an officer may not be
19 deleted, destroyed, or released to the public until all criminal
20 matters have been finally adjudicated and all related
21 administrative investigations have concluded.

22 (b) A law enforcement agency may release to the public a
23 recording described by Subsection (a) if the law enforcement agency
24 determines that the release furthers a law enforcement purpose.

25 (c) This section does not affect the authority of a law
26 enforcement agency to withhold under Section 552.108, Government
27 Code, information related to a closed criminal investigation that

1 did not result in a conviction or a grant of deferred adjudication
2 community supervision.

3 Sec. 1701.661. RELEASE OF INFORMATION RECORDED BY BODY WORN
4 CAMERA. (a) A member of the public is required to provide the
5 following information when submitting a written request to a law
6 enforcement agency for information recorded by a body worn camera:

7 (1) the date and approximate time of the recording;

8 (2) the specific location where the recording
9 occurred; and

10 (3) the name of one or more persons known to be a
11 subject of the recording.

12 (b) A failure to provide all of the information required by
13 Subsection (a) to be part of a request for recorded information does
14 not preclude the requestor from making a future request for the same
15 recorded information.

16 (c) Except as provided by Subsection (d), information
17 recorded by a body worn camera and held by a law enforcement agency
18 under this subchapter is not subject to the requirements of Section
19 [552.021](#), Government Code.

20 (d) Information that is or could be used as evidence in a
21 criminal prosecution is subject to the requirements of Section
22 [552.021](#), Government Code.

23 (e) A law enforcement agency may:

24 (1) seek to withhold information subject to Subsection
25 (d) in accordance with procedures provided by Section [552.301](#),
26 Government Code;

27 (2) assert any exceptions to disclosure in Chapter

1 552, Government Code, or other law; or

2 (3) release information requested in accordance with
3 Subsection (a) after the agency redacts any information made
4 confidential under Chapter 552, Government Code, or other law.

5 (f) A law enforcement agency may not release any portion of
6 a recording made in a private space, or of a recording involving the
7 investigation of conduct that constitutes a misdemeanor punishable
8 by fine only and does not result in arrest, without written
9 authorization from the person who is the subject of that portion of
10 the recording or, if the person is deceased, from the person's
11 authorized representative.

12 (g) The attorney general shall set a proposed fee to be
13 charged to members of the public who seek to obtain a copy of a
14 recording under this section. The fee amount must be sufficient to
15 cover the cost of reviewing and making the recording. A law
16 enforcement agency may provide a copy without charge or at a reduced
17 charge if the agency determines that waiver or reduction of the
18 charge is in the public interest.

19 (h) A recording is confidential and excepted from the
20 requirements of Chapter 552, Government Code, if the recording:

21 (1) was not required to be made under this subchapter
22 or another law or under a policy adopted by the appropriate law
23 enforcement agency; and

24 (2) does not relate to a law enforcement purpose.

25 Sec. 1701.662. BODY WORN CAMERA RECORDINGS; REQUEST FOR
26 ATTORNEY GENERAL DECISION. (a) Notwithstanding Section
27 552.301(b), Government Code, a governmental body's request for a

1 decision from the attorney general about whether a requested body
2 worn camera recording falls within an exception to public
3 disclosure is considered timely if made not later than the 20th
4 business day after the date of receipt of the written request.

5 (b) Notwithstanding Section 552.301(d), Government Code, a
6 governmental body's response to a requestor regarding a requested
7 body worn camera recording is considered timely if made not later
8 than the 20th business day after the date of receipt of the written
9 request.

10 (c) Notwithstanding Section 552.301(e), Government Code, a
11 governmental body's submission to the attorney general of the
12 information required by that subsection regarding a requested body
13 worn camera recording is considered timely if made not later than
14 the 25th business day after the date of receipt of the written
15 request.

16 (d) Notwithstanding Section 552.301(e-1), Government Code,
17 a governmental body's submission to a requestor of the information
18 required by that subsection regarding a requested body worn camera
19 recording is considered timely if made not later than the 25th
20 business day after the date of receipt of the written request.

21 Sec. 1701.663. PRODUCTION OF BODY WORN CAMERA RECORDING IN
22 RESPONSE TO VOLUMINOUS PUBLIC INFORMATION REQUESTS.

23 (a) Notwithstanding Section 552.221(d), Government Code, an
24 officer for public information who is employed by a governmental
25 body and who receives a voluminous request in accordance with
26 Section 1701.661(a) is considered to have promptly produced the
27 information for purposes of Section 552.221, Government Code, if

1 the officer takes the actions required under Section 552.221 before
2 the 21st business day after the date of receipt of the written
3 request.

4 (b) For purposes of this section, "voluminous request"
5 includes:

6 (1) a request for body worn camera recordings from
7 more than five separate incidents;

8 (2) more than five separate requests for body worn
9 camera recordings from the same person in a 24-hour period,
10 regardless of the number of incidents included in each request; or

11 (3) a request or multiple requests from the same
12 person in a 24-hour period for body worn camera recordings that,
13 taken together, constitute more than five total hours of video
14 footage.

15 SECTION 2. (a) The Texas Commission on Law Enforcement, in
16 consultation with the Department of Public Safety, the Bill
17 Blackwood Law Enforcement Management Institute of Texas, the W. W.
18 Caruth Jr. Police Institute at Dallas, and the Texas Police Chiefs
19 Association, shall develop or approve a curriculum for the training
20 program required under Section 1701.656, Occupations Code, as added
21 by this Act, not later than January 1, 2016.

22 (b) A law enforcement agency operating a body worn camera
23 program on the effective date of this Act may submit any existing
24 policy of the agency regarding the use of body worn cameras to the
25 Texas Commission on Law Enforcement to determine whether the policy
26 complies with Section 1701.655, Occupations Code, as added by this
27 Act.

1 (c) Notwithstanding Sections 1701.655 and 1701.656,
2 Occupations Code, as added by this Act, a law enforcement agency
3 operating a body worn camera program on the effective date of this
4 Act is not required to adopt or implement a policy that complies
5 with Section 1701.655 or implement the training program required
6 under Section 1701.656 before September 1, 2016.

7 SECTION 3. This Act takes effect September 1, 2015.

S.B. No. 158

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 158 passed the Senate on April 23, 2015, by the following vote: Yeas 22, Nays 8; and that the Senate concurred in House amendments on May 28, 2015, by the following vote: Yeas 24, Nays 7.

Secretary of the Senate

I hereby certify that S.B. No. 158 passed the House, with amendments, on May 25, 2015, by the following vote: Yeas 135, Nays 4, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

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