

CODE OF ORDINANCES
OF THE
CITY OF HOLLAND, TEXAS

As Codified By:



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ARTICLE 1.01
CODE OF ORDINANCES

§ 1.01.001. Adoption.

There is hereby adopted the Code of Ordinances of the City of Holland, Texas, as compiled, edited and published by Franklin Legal Publishing, Inc.

(Ordinance adopting Code)

§ 1.01.002. Designation and citation of code.

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

(Ordinance adopting Code)

§ 1.01.003. Catchlines of articles, divisions and sections.

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

(Ordinance adopting Code)

§ 1.01.004. Definitions and rules of construction.

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

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

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

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

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

Council. Whenever the term “council” or “city council” or “the council” is used, it shall mean the city council of the City of Holland, Texas.

County. The term “county” or “this county” shall mean the County of Bell, Texas.

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

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

Joint authority. Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

May. The word “may” is permissive.

Month. The word “month” shall mean a calendar month.

Must and shall. Each is mandatory.

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

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

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

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

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

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

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

Property. The word “property” shall mean and include real and personal property.

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

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

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

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

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

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

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

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

Year. The word “year” shall mean a calendar year.

(Ordinance adopting Code)

§ 1.01.005. Severability of parts of code.

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

(Ordinance adopting Code)

§ 1.01.006. Repeal of ordinances.

The repeal of an ordinance or any portion thereof shall not repeal the repealing clause of an ordinance or revive any ordinance which has been previously repealed.

(Ordinance adopting Code)

§ 1.01.007. Amendments or additions to code.

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

(Ordinance adopting Code)

§ 1.01.008. Supplementation of code.

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

- (b) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by omission thereof from reprinted pages.
- (c) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for articles, sections and other subdivisions of the code printed in the supplement and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to articles, sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing article or section or other subdivision numbers;
 - (4) Change the words “this ordinance” or words of the same meaning to “this chapter,” “this article,” “this section,” “this subsection,” etc., as the case may be; and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance material inserted into the code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

(Ordinance adopting Code)

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

- (a) Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor or whenever in this code or such ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars (\$500.00).
- (b) A fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation, other than the dumping of refuse, may not exceed two thousand dollars (\$2,000.00).
- (c) A fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed four thousand dollars (\$4,000.00).
- (d) A person convicted of an offense under title 7, subtitle C, Transportation Code (the Uniform Act Regulating Traffic on Highways) for which another penalty is not provided shall be punished by a fine of not less than \$1.00 or more than \$200.00 plus such other penalties and costs as may be provided by such subtitle C.

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- (e) Unless otherwise specifically stated in this code, any violation of this code or of any ordinance that is punishable by a fine that does not exceed five hundred dollars (\$500.00) does not require a culpable mental state, and a culpable mental state is hereby not required to prove any such offense.
- (f) No penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state.
- (g) Unless otherwise stated in this code or in any ordinance, each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.
- (h) In the event that any such violation is designated as a nuisance under the provisions of this code, such nuisance may be summarily abated by the city. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.
- (i) In the event authorizing state law is amended, modified, superseded or otherwise changed to alter the allowable punishment range, then the city's range of punishment shall likewise be amended, modified, superseded or otherwise changed.

(Ordinance adopting Code)

**ARTICLE 1.02
DISCRIMINATION**

Division 1

Generally

§ 1.02.001. through § 1.02.030. (Reserved)

Division 2

Fair Housing

§ 1.02.031. Declaration of policy.

- (a) It is hereby declared to be the policy of the city to bring about, through fair, orderly and lawful procedures, the opportunity of each person to obtain housing without regard to race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.
- (b) It is further declared that such policy is established upon a recognition of the inalienable rights of each individual to obtain housing without regard to race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age; and further that the denial of such rights through considerations based on race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age is detrimental to the health, safety and welfare of the inhabitants of the city and constitutes an unjust denial or deprivation of such inalienable rights which is within the power and the proper responsibility of government to prevent.

(Ordinance adopted 7/24/2000, sec. 1)

§ 1.02.032. Definitions.

As used in this division, the following words and phrases shall have the meanings respectively ascribed to them in this section unless the context requires otherwise:

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

Creed means any set of principles, rules, opinions and precepts formally expressed and seriously adhered to or maintained by a person.

Director means the director of the human relations department or authorized assistant.

Discriminatory housing practice means an act which is unlawful under this division.

Dwelling means any building, structure or portion thereof which is occupied as, or designed and intended for occupancy as, a residence by one or more persons and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Family means a single individual or a group of individuals living together under one common roof.

Major life activities means functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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

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

Person means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

Physical or mental handicap means any physical or mental impairment which substantially limits one or more major life activities.

Physical or mental impairment shall include:

- (1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or
- (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

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

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

(Ordinance adopted 7/24/2000, sec. 2)

§ 1.02.033. Interpretation and effect.

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

(Ordinance adopted 7/24/2000, sec. 3)

§ 1.02.034. Discrimination in sale or rental of housing.

Except as exempted, it shall be unlawful:

- (1) To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.
- (2) To discriminate against any person in the terms, conditions, or privileges of a sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.
- (3) To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood or age, or an intention to make any such preference, limitation or discrimination.
- (4) To represent to any person because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (5) To induce or to attempt to induce any person to sell or rent any dwelling by representations regarding the entry into the neighborhood of a person or persons of a particular race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

(Ordinance adopted 7/24/2000, sec. 4)

§ 1.02.035. Discrimination in housing financing.

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

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conditions of such loan or other financial assistance because of the race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age of such person or such persons associated therewith or because of the race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age of the present or prospective owners, lessors, tenants or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.

(Ordinance adopted 7/24/2000, sec. 5)

§ 1.02.036. Discrimination in providing brokerage service.

It shall be unlawful for any person to deny another person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against another person in the terms or conditions of such access, membership or participation, on account of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

(Ordinance adopted 7/24/2000, sec. 6)

§ 1.02.037. Unlawful intimidation.

It shall be unlawful for any person to harass, threaten, harm, damage, or otherwise penalize any individual, group or business because such individual, group or business has complied with the provisions of this division or has exercised in good faith rights under this division, or has enjoyed the benefits of this division, or because such individual, group, or business has made a charge in good faith, testified in good faith or assisted in good faith in any manner in any investigation or in any proceeding hereunder or has made any report to the director.

(Ordinance adopted 7/24/2000, sec. 7)

§ 1.02.038. Exemptions and exclusions.

(a) Nothing in this division shall apply to:

- (1) Any single-family house sold or rented by an owner, provided that:
 - (A) Such private individual owner does not own more than three (3) single-family houses at any one time; and
 - (B) If the owner does not reside in the house at the time of the sale or was not the most recent resident of such house prior to sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period; and
 - (C) Such bona fide private individual does not own any interest in, nor is there owned or reserved on such person's behalf, under any voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time; and

- (D) The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental service of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and
 - (E) The sale or rental is made without the publication, posting or mailing of any advertisement or written notice in violation of this division; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.
- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than for (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- (b) For the purposes of subsection (a), a person shall be deemed to be in the business of selling or renting dwellings if:
- (1) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - (2) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - (3) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.
- (c) Nothing in this division shall prohibit a religious organization, association or society or a nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, physical or mental handicap, marital status, parenthood, or age.
- (d) Nothing in this division shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members, or from giving preference to its members.
- (e) Nothing in this division shall bar any person from owning and operating a housing accommodation in which rooms are leased, subleased or rented only to persons of the same sex, which such housing accommodation contains common lavatory, kitchen or similar occupying such housing accommodation.[??]
- (f) Nothing in this division shall prohibit the sale, rental, lease or occupancy of any dwelling designed and operated exclusively for senior adults and their spouses, unless

the sale, rental, lease or occupancy is further restricted on account of race, color, creed, religion, sex, national origin, physical or mental handicap and marital status.

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

(Ordinance adopted 7/24/2000, sec. 8)

§ 1.02.039. Violations.

No person shall violate any provision of this division, or knowingly obstruct or prevent compliance with this policy.

(Ordinance adopted 7/24/2000, sec. 9)

§ 1.02.040. Enforcement.

- (a) Generally. The director of the human relations department shall have the responsibility of administering and implementing this division. The director may delegate the authority to investigate and conciliate complaints to other designated city employees.
- (b) Complaints.
- (1) Any person who claims to have been injured by a discriminatory practice or believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereinafter referred to as the "charged [charging][??] party") may file a complaint with the director. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The director shall prepare complaint forms and furnish them without charge to any person upon request.
 - (2) The director shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to subsection (a) of this section.
 - (3) All complaints shall be filed within one hundred eighty (180) days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the director shall provide notice of the complaint by furnishing a copy of such complaint to the persons named therein (hereinafter referred to as the "respondent") who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The respondent may file an

answer to the complaint within fifteen (15) days of receipt of the written complaint.

- (4) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.
 - (5) If at any time the director shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed a discriminatory housing practice as to which no complaint has been filed or is about to be filed, the director may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.
- (c) Investigation and conciliation.
- (1) Upon the filing or referral of a complaint as herein provided, the director shall cause to be made a prompt and full investigation of the matter stated in the complaint; provided, however, that before any charge becomes accepted for investigation purposes, the director or investigator shall have personally reviewed with the charging party the allegations contained therein and shall have determined that said charge comes within the provisions of this policy. In the event such review results in the determination that a particular charge does not come within the provisions of this policy, the charging party shall be given a clear and concise explanation of the reasons why it does not.
 - (2) If the director determines that there is not probable cause to believe that a particular alleged discriminatory housing practice has been committed, the court shall take no further action with respect to that alleged offense.
 - (3) During or after the investigation, but subsequent to the mailing of the notice of complaint, the director shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice, and to obtain adequate assurance of future voluntary compliance with the provisions of this division. Nothing said or done in the course of such informal endeavors may be made public by the director, the commission, the investigator, the conciliator, the charging party, or the respondent, or be used as evidence in a subsequent proceeding, without the written consent of all persons concerned.
 - (4) Upon completion of an investigation where the director has made a determination that a discriminatory housing practice has in fact occurred, if the director is unable to secure from the respondent an acceptable conciliation agreement, then the human relations commission of the city must, upon a majority vote, refer the case to other agencies as appropriate.
- (d) Penalty. If a discriminatory housing practice is found to have in fact occurred and the case has been referred to municipal court, the respondent shall be assessed a penalty of not less than \$300.00 per violation.

(Ordinance adopted 7/24/2000, sec. 10)

Chapter 2

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**ARTICLE 2.01
GENERAL PROVISIONS**

§ 2.01.001. Form of government.

The city does hereby accept the provisions of ==title XXVIII of Vernon’s Annotated Civil Statutes relating to cities and towns, in lieu of any existing charter, as authorized by ==article 961 V.A.C.S.

(Resolution 14-PER-W adopted 12/15/1984)

**ARTICLE 2.02
MAYOR AND COUNCIL**

Division 1

Generally

§ 2.02.001. Composition of city council; elections.

- (a) The city council is composed of the mayor and five (5) council members. The city council places are hereby numbered 1, 2, 3, 4 and 5. The next general election of the city shall be in May 2003 for the office of two (2) council members. In May of 2002, the mayor and three (3) council member positions were open.
- (b) The general city election of the city council will be held on the first Saturday in May, or the nearest date thereto as may be required by law, each year. At the general election to be held in 2003 and every odd year thereafter, the council members for places 2 and 4 will be elected. At the general election held in 2004 and every even year thereafter, council members for places 1, 3, and 5 will be elected. The mayor shall continue to be elected at each even year during the general election, unless otherwise provided.

(Ordinance 2-11-03 adopted 2/11/2003)

§ 2.02.002. through § 2.02.030. (Reserved)

Division 2

Meetings and Agenda

§ 2.02.031. Meetings generally; quorum; conduct.

- (a) Regular meetings. Regular meetings of the city council shall be held on the fourth Monday of each calendar month at 6:00 p.m.; provided that, if any such Monday is a city holiday, the regular meeting scheduled shall be held as agreed to by the council at a meeting prior to or after the holiday. In addition, the council may cancel or reschedule a council meeting at any time.
- (b) Special meetings. Special meetings of the city council shall be held on the call of the mayor, subject to the following procedures:
 - (1) The mayor may call a special meeting of the city council on his/her own motion or upon the application of three (3) members of the city council. The mayor shall call a special meeting on the application of 4 council members.
 - (2) When the mayor calls a special meeting of the city council a good faith and reasonable attempt shall be made to contact each council member for the purpose of establishing the most convenient time to hold the meeting, in order to maximize attendance and enable the council to work together as appropriate to conduct required city business.
- (c) Quorum.

- (1) For a regular city council meeting, three (3) council members constitute a quorum. For a special city council meeting, four (4) council members constitute a quorum.
 - (2) “Walking quorums” are prohibited. A “walking quorum” is defined as meetings of groups of less than a quorum where a quorum or more of the body is attempting to avoid the purposes of the Open Meetings Act by deliberately meeting in groups less than a quorum in meetings not open to the public to discuss and deliberate public business and then ratifying their actions as a quorum in a subsequent public meeting.
- (d) Conduct. It is the intention of the council to provide the citizens of the city opportunity to address the city council and express themselves on issues of city government. Each member requesting to address the council will have three (3) minutes to address the council. The council may grant additional time if deemed necessary.
- (1) Members of the public are reminded that the city council possesses the power to issue a citation for disruption of a meeting or procession under section 42.05 (Class B) and for hindering proceedings by disorderly conduct under section 38.13 (Class A) of the Texas Penal Code. Members of the public in attendance at a meeting of the city council shall conduct themselves with proper respect and decorum in speaking to and addressing the council and in all actions in the presence of the council. Those members of the public who do not conduct themselves in an orderly and appropriate manner will be ordered to leave the meeting.
 - (2) Council meetings are not forums for the demeaning of any individual or group, including the council, the mayor or city employees, staff or consultants. Profane, insulting or threatening language directed toward the council and/or a person in the council’s presence and racial, ethnic or gender slurs or epithets will not be tolerated. Violation of these rules may result in the following sanctions:
 - (A) Cancellation of the speaker’s remaining time;
 - (B) Removal from the council room;
 - (C) Issuance of a contempt citation;
 - (D) Such other civil and criminal sanctions as may be authorized under the constitution, statutes and codes of the State of Texas.
 - (3) The mayor, all council members and city employees and staff are required to display the same appropriate behaviors as described in subsection (2) above. The mayor, all council members and city employees and staff shall not insult the honesty and integrity of any person or group. Elected officials are required and charged by the oath of office to conduct themselves and perform their duties in an ethical and professional manner at all times. Inappropriate or disruptive behavior of the mayor, any council member and any city employee and staff may be discontinued upon the majority vote of the council as a point of order. The disruptive mayor, council member and city employee and staff may also be removed from the premises if the disruptive behavior continues. Further outbursts or disruptive behavior may be addressed by the issuance of a contempt citation

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and such other civil or criminal sanctions as may be authorized under the constitution, statutes and codes of the State of Texas.

- (4) The city chief of police (“chief”) shall serve as the bailiff at all regular, special and emergency meetings of the city council. If the chief is absent, or a conflict of interest is raised by the attendance of the chief, or if an executive session is held in which the chief is not an authorized participant, then the city council shall appoint another city police officer to serve as bailiff. This policy does not create a right of the bailiff to attend an executive session.

(Ordinance 03-2020, sec. 1, adopted 3/23/2020)

§ 2.02.032. Agenda for regular meetings.

The agenda for each regular meeting of the city council shall contain such information and be posted in a time and place as is sufficient to comply with the Texas Open Meetings Act, chapter 551, Texas Government Code.

- (1) Form and structure of agenda. The agenda for each regular meeting of the city council shall be ordered generally as follows:
- (A) Items opening meeting (including as applicable call to order, Pledge of Allegiance, roll call, invocation, and citizens’ participation);
 - (B) Approval of minutes;
 - (C) General business;
 - (D) Adjournment.
- (2) Agenda items. The mayor, any council member or legal counsel for the city may place any subject matter on the agenda for a regular meeting of the city council.
- (3) Agenda item requests. All agenda item requests are made through the city secretary.
- (A) The deadline to request an item to be placed on the agenda shall be the close of business on the Monday prior to the city council meeting.
 - (B) Subject to the Texas Open Meetings Act, an item may be placed on the agenda after the prior Monday deadline if the item requires council action prior the next regular city council meeting.
- (4) Preparation of agenda.
- (A) The city secretary shall collect the agenda items and review them with the mayor to set the order of the agenda items. The city secretary shall then prepare the notice of the meeting of the city council for signature and posting to comply with the Open Meetings Act, chapter 551, Texas Government Code. The mayor has the authority to reorder the agenda items prior to the posting or during the meeting for efficiency and to facilitate the conduct of the council meeting. The agenda shall be posted on the door of city hall at 102 W. Travis St, Holland, Texas and the Kuhlmann Civic Center, 107 West Travis, Holland, Texas.

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- (B) The city secretary shall have the administrative duty to compile the agenda for each council meeting and shall have the compiled agenda delivered to each councilman's door 4 business days before the set council meeting.
- (5) Executive sessions.
- (A) While there is no state requirement to ever have to go into an executive session, the Open Meetings Act provides exceptions to the requirement that meetings of a governmental [body][??] be open to the public. These exceptions are found in Texas Government Code, chapter 551, section 551.071 et seq. The city council may go into executive session at any time, when in the judgment of the city council it is in the best interests of the city, on any properly posted agenda item dealing with subject matter for which the Texas Open Meetings Act authorizes executive sessions. Action shall be taken in open session.
- (B) If a closed meeting is to be held, a quorum of the city council must first convene in an open meeting and the mayor shall announce a closed meeting will be held, identifying the section of the Open Meetings Act that applies.
- (i) The city will maintain copies of the tape recording of closed meetings for a period of two years after the date of the meeting (Texas Government Code section 551.104 and section 551.145).
- (ii) Any individual, corporation or partnership commits an offense if it, without lawful authority, knowingly discloses to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public under the Texas Open Meetings Act (Texas Government Code section 551.146).

(Ordinance 03-2020, sec. 2, adopted 3/23/2020)

§ 2.02.033. Agenda for special meetings.

The agenda for each special meeting of the city council shall contain such information and be posted in a time and place as is sufficient to comply with the Texas Open Meetings Act, chapter 551, Texas Government Code.

- (1) Form and structure of agenda. The agenda for each special meeting of the city council shall be ordered generally as follows:
- (A) Items opening meeting (including as applicable call to order, Pledge of Allegiance, roll call, invocation, and citizens' participation);
- (B) General business;
- (C) Adjournment.
- (2) Agenda items. The mayor or any council member may place any subject matter on the agenda for a meeting of the city council. Agenda items placed on [the agenda for][??] a special meeting of the city council must be related to the purpose/reason for which the special meeting was called.

- (3) Preparation of agenda. The city secretary shall collect the agenda items and review them with the mayor to set the order of the agenda items. The city secretary shall then prepare the notice of the meeting of the city council for signature and posting to comply with the Open Meetings Act, chapter 551, Texas Government Code. The mayor has the authority to reorder the agenda items prior to the posting or during the meeting for efficiency and to facilitate the conduct of the council meeting. The agenda shall be posted on the door of city hall at 102 W. Travis St, Holland, Texas, and the Kuhlmann Civic Center, 107 West Travis, Holland, Texas.
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- (A) While there is no state requirement to ever have to go into an executive session, the Open Meetings Act provides exceptions to the requirement that meetings of a governmental [body][??] be open to the public. These exceptions are found in Texas Government Code, chapter 551, section 551.071 et seq. The city council may go into executive session at any time, when in the judgment of the city council it is in the best interests of the city, on any properly posted agenda item dealing with subject matter for which the Texas Open Meetings act authorizes executive sessions. Action shall be taken in open session.
- (B) If a closed meeting is to be held, a quorum of the city council must first convene in an open meeting and the mayor shall announce a closed meeting will be held, identifying the section of the Open Meetings Act that applies.
- (i) The city will maintain copies of the tape recording of closed meetings for a period of two years after the date of the meeting (Texas Government Code section 551.104 and section 551.145).
- (ii) Any individual, corporation or partnership commits an offense if it, without lawful authority, knowingly discloses to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public under the Texas Open Meetings Act (Texas Government Code section 551.146).

(Ordinance 03-2020, sec. 3, adopted 3/23/2020)

§ 2.02.034. Official address.

All official correspondence shall be directed to the official address for the mayor, council members, or any official of the city at: The City of Holland, 102 W. Travis St., Holland, TX 76534.

(Ordinance 03-2020, sec. 4, adopted 3/23/2020)

§ 2.02.035. Conduct of meetings.

The mayor and the city council shall generally conduct each regular and special meeting of the city council in general compliance with Robert's Rules of Order; provided that the failure of the mayor and/or the city council to follow Robert's Rules of Order shall not create any right or violate any right of any third party, person or citizen that is not the mayor or a member of the city council, or create or give rise to any due process claim for or on behalf of

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any third party, person or citizen who is not the mayor and/or a member of the city council. This provision may be enforced exclusively by the mayor, or a majority vote of the city council.

(Ordinance 03-2020, sec. 5, adopted 3/23/2020)

§ 2.02.036. through § 2.02.060. (Reserved)

Division 3

Mayor

§ 2.02.061. Duties and authority.

In addition to the limited duties and authority specified by statute for the office of mayor, the mayor shall be responsible to the city council for the proper coordination and oversight of departments and the day-to-day affairs and operation of the city. The mayor shall perform the duties and exercise the authority set forth in this section, in a manner consistent with this section, the approved budget in effect from time to time, the ordinances, policies and regulations of the city, and the directions of the city council. The mayor shall have the authority, duty and responsibility as hereinafter set forth in this section.

- (1) The mayor shall act as the director of personnel and perform the duties of such position with the assistance of the city secretary. He shall prepare job descriptions for approval by the city council and delegate duties to the department heads of the city that are consistent with the positions in which they serve, and shall not unreasonably interfere with such personnel in the performance of their duties. He or she shall recommend persons to fill budgeted positions and, when discipline is appropriate, recommend to the city council the termination, suspension, or discipline of any employee, and exercise general day-to-day coordination of all departments of the city. Each department shall be subject to the overall direction, control and supervision of the city council, and shall report monthly to the city council by written or oral report.
- (2) The mayor shall ensure that all laws and ordinances are enforced, and he or she shall not direct any department head or officer of the city not to enforce any ordinance of the city; provided that the mayor may direct that a department head or officer of the city postpone or abate enforcement of an ordinance until the next meeting of the city council. If the mayor shall direct that any department or employee of the city postpone or abate the enforcement of any ordinance, such direction shall be in effect only until the next meeting of the city council, and such matter shall be reviewed and acted upon as appropriate by the city council.
- (3) The mayor shall attend all meetings of the city council with the right to participate in the discussion, but have no vote except in the case of a tie vote.
- (4) The mayor shall act as chief budget officer of the city, pursuant to chapter 102, Texas Local Government Code, in the preparation, review and submission to the city council, prior to the beginning of each fiscal year, of a proposed budget for proposed appropriations and expenditures for the ensuing year together with a message describing the important features of said budget. The department heads and employees shall render such assistance as the mayor may find reasonably necessary in the preparation and submission of said budget. The mayor, department heads and

employees shall further, as directed by the city council, assist the city council with respect to its consideration of said budget. The mayor shall assure the proper administration of, and compliance with, the budget, after its adoption by the city council.

- (5) The mayor shall prepare and submit to the city council, at the end of each fiscal year, a complete report on the finances and administrative activities of the city for that year.
- (6) The mayor shall review the monthly finances and administrative reports, prepared by each department for presentation to the city council, and make any needed exception report.
- (7) The mayor shall keep the city council advised of the financial condition and future needs of the city, and provide such information and service as may be deemed reasonably necessary by the city council. The mayor shall advise and assist the city council to assure the accomplishment of the annual audit pursuant to section 103.001, Texas Local Government Code.
- (8) Purchasing:
 - (A) The mayor shall coordinate, and provide oversight of, the purchase by the departments of all materials, supplies, and equipment for which funds are provided in the budget; assure compliance with the budget and that no supplies, materials or equipment not specifically included in the budget are purchased without the prior approval of the city council; and approve the purchase of materials and supplies necessary to meet an emergency which is a direct and immediate threat to the health, safety or welfare of the citizenry, operation or maintenance of the city services for amounts up to and including \$2,000.00. All expenditures over \$2,000.00 shall be specifically approved in advance by the city council. For expenditures requiring competitive bids for procurement, the mayor shall present the proposed purchases to the city council for approval and ensure compliance with the competitive bidding procedures of state law. No purchase shall be made, contract let, or obligation incurred for any item or service which exceeds the current departmental budget appropriation for such item without a supplemental appropriation approved by the council. No contract shall be let except by the city council. The mayor shall advise the city council on the advantages or disadvantages of contract and bid proposals. The mayor may issue written rules governing procedures for purchasing consistent with this section and with applicable state law.
 - (B) The duty of the mayor with respect to purchasing shall be to coordinate, provide oversight, and require compliance with the budget, and the purchasing policies of the city and state law. He or she shall not make purchases but shall assist the departments with authorized purchases to accomplish the work of the city. However, the respective department heads for the department for which the purchases are made shall be responsible to assure purchases are authorized by the budget, and accomplished in compliance with city policy and state law.
- (9) In the event of accident, disaster, or other circumstance creating a public emergency, the mayor shall call an emergency meeting of the city council and in the interim the mayor may make essential contract awards for work pending the council meeting and

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make purchases of a critical supply immediately required for the purpose of meeting the emergency; but within no more than seventy-two (72) hours, the mayor shall file with the city council a certificate describing any such emergency and showing the necessity for such emergency purchases, together with an itemized account of all such expenditures. Such public emergency must qualify for emergency procurement as set forth in the Local Government Code.

- (10) In the absence of the city secretary, the mayor accept applications for permits and ensure that such applications are promptly forwarded to the appropriate employee for review and recommendation. Applications accepted by the mayor shall be promptly forwarded to the proper employee or officer, or the city council as and if required, for approval or denial.
- (11) The mayor shall recommend policies and procedures to the city council for the day-to-day operations of the city.
- (12) The mayor shall have such further authority, duties and responsibilities as set forth in the state statutes and as heretofore or hereafter provided by the city council in ordinance.

(Ordinance 99HR, sec. 2, adopted 5/17/2010)

**ARTICLE 2.03
BOARDS AND COMMISSIONS**

Division 1
Generally

§ 2.03.001. through § 2.03.030. (Reserved)

Division 2
Planning and Zoning Commission

§ 2.03.031. Creation and purpose.

A planning and zoning commission is created in order to accomplish the following purposes:

- (1) To identify community needs and to advise the city council of their short-range and long-range implications for the total development of the city;
- (2) To recommend achievable community goals as a basis for long-range planning and development programs;
- (3) To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals; and
- (4) To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies.

(Ordinance 9-24-1 (ord. 1), sec. 1, adopted 9/24/2001)

§ 2.03.032. Membership; appointment of members.

The planning and zoning commission shall be composed of five (5) persons with at least three being qualified electors of the city and two may be residents in the extraterritorial jurisdiction. The city council will consider for appointment to the commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings. It is the intent of the city council that members shall, by reason of diversity of their individual occupations, constitute a commission which is broadly representative of the community.

(Ordinance 9-24-1 (ord. 1), sec. 2, adopted 9/24/2001)

§ 2.03.033. Terms of office; filling of vacancies.

The terms of two of the members shall expire on January 1 of each odd-numbered year and the terms of three of the members shall expire on January 1 of each even-numbered year. The members of the commission shall be identified by place numbers one through five. The odd-numbered places shall expire in the odd-numbered years; the even-numbered places shall expire in the even-numbered years. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, but no member shall be appointed for a term in excess of two years. Newly appointed members shall be installed at the first regular commission meeting after their appointment.

(Ordinance 9-24-1 (ord. 1), sec. 3, adopted 9/24/2001)

§ 2.03.034. Appointment of chairperson and vice-chairperson.

The chairperson and vice-chairperson shall be appointed by the mayor with approval of the council.

(Ordinance 9-24-1 (ord. 1), sec. 4, adopted 9/24/2001)

§ 2.03.035. Organization; record of proceedings.

The commission shall hold an organization meeting in February of each year. The commission shall elect a secretary and such other officers as it deems necessary either from its membership or from staff representatives assigned by the mayor to work with the commission. The commission shall meet regularly and shall designate the time and place of its meetings. The commission shall keep a record of its proceedings consistent with the provisions of this code and the requirements of law.

(Ordinance 9-24-1 (ord. 1), sec. 5, adopted 9/24/2001)

§ 2.03.036. Duties and powers.

The planning and zoning commission is charged with the duty and invested with the authority to:

- (1) Inspect property and premises at reasonable hours when required to discharge its responsibilities under the laws of the state and of the city.
- (2) Formulate and recommend to the city council for its adoption a comprehensive plan for the orderly growth and development of the city and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.
- (3) Formulate a zoning plan as may be deemed best to carry out the goals of the comprehensive plan; hold public hearings and make recommendations to the city council relating to the creation, amendment, and implementation of zoning regulations and districts as provided by ordinance, the Local Government Code, as amended, authorizing cities to pass regulations.
- (4) Exercise all the powers of a commission as to approval or disapproval of plans, plats, or replats and vacations of plans, plats or replats set out in the subdivision ordinance and chapter 212 (Municipal Regulation of Subdivisions and Property Development), Local Government Code.
- (5) Study and make recommendations on the location, extension, planning, vacating, and closing of public rights-of-way, parks, and other public places.
- (6) Study and make recommendations concerning the capital improvements program, including the construction of public buildings, bridges, viaducts, street fixtures, and other structures and appurtenances. Study and make recommendations on the design or alteration and on the location or relocation of works of art which are, or may become, the property of the city.
- (7) Initiate, in the name of the city, for consideration at public hearings, all proposals: for the opening, vacating, or closing of public rights-of-way, parks, or other public places; for the original zoning of annexed areas; and for the change of zoning district boundaries on an area-wide basis. No fee shall be required for the filing of any such proposal in the name of the city.
- (8) Formulate and recommend to the city council policies and regulations consistent with the adopted comprehensive plan governing the location and/or operation of utilities, public facilities, and services owned or under the control of the city.
- (9) Review and make recommendations concerning annexation of land into the city.
- (10) Keep itself informed with references to the progress of city planning in the United States and other countries and recommend improvements in the adopted plans of the city.
- (11) Submit a progress report to the city council every 180 days that summarizes its activities, major accomplishments for the past year, and a proposed work program for

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the coming year. The report shall contain the attendance record of all members and the identity of commission officers for the year.

(Ordinance 9-24-1 (ord. 1), sec. 6, adopted 9/24/2001)

§ 2.03.037. Meetings and quorum.

- (a) A motion may be made by any member other than the presiding officer.
- (b) A motion to approve any matter before the commission or to recommend approval of any request requiring city council action shall require a majority vote of the quorum of the members present. When fewer than all the members are present for the voting and when all motions to recommend on a given application fail to carry by a majority of the quorum of members present, consideration of the application shall be continued to the next regular meeting upon motion carried by a majority of those present. However, a request or application shall not be continued to the next regular meeting and shall be recorded in the minutes as a denial if all the members are present for the vote and a motion fails to carry by a majority vote.

(Ordinance 9-24-1 (ord. 1), sec. 7, adopted 9/24/2001)

§ 2.03.038. Disqualification from voting.

- (a) A member shall disqualify themselves from voting whenever they find that they have a personal or monetary interest in the property under appeal, or that they will be directly affected by the decision of the commission.
- (b) A member may disqualify himself or herself from voting whenever any applicant, or his or her agent, has sought to influence the vote of the member on the application, other than in the public hearing.

(Ordinance 9-24-1 (ord. 1), sec. 8, adopted 9/24/2001)

§ 2.03.039. Rules of procedure; application procedures.

- (a) Election of acting chairperson. In the absence of both the chairperson and vice-chairperson, the commission shall elect an acting chairperson.
- (b) Meetings.
 - (1) Quorum. A quorum shall consist of three members.
 - (2) Agenda. The secretary shall prepare an agenda for each meeting of the commission, and shall attach to each agenda a report of matters pending further action by the commission. The secretary shall post a copy of the agenda in the city hall as required by law for a period of three full calendar days, not counting the day of posting, but which may count the day of the meeting.
 - (3) Regular meetings. Regular meetings shall be [held in the][??] council chambers of the city hall, unless otherwise determined by the commission.

- (4) Special meetings. Special meetings for any purpose may be held: on the call of the chairperson, or on request of two or more members and by giving written notice to all members deposited in the mail at least 72 hours before the meeting, or as may be scheduled by a majority of the commission at any previous meeting. The time and place of the special meeting shall be determined by the convening authority.
 - (5) Public meetings. Any party in interest may appear in his own behalf or be represented by counsel or agent.
- (c) Official records.
- (1) Generally. The official records shall be the minutes of the commission, together with all findings, decisions, and other official records of the commission.
 - (2) Recording of vote. The minutes of the commission's proceedings shall show the vote of each member, or indicate a member's absence or failure to vote.
 - (3) Retention of files. All matters coming before the commission shall be filed in the city's records. Original papers of all requests and proposals shall be retained as a part of the permanent record.
 - (4) Public record. The official records and citizen requests filed for commission action in regular or special meetings shall be on file in the city hall and shall be open to public inspection during customary working hours.
- (d) Application procedures.
- (1) Written request required. Every proposal submitted for commission action shall be made in writing. Where appropriate, the city shall provide application forms. The proposal shall be filed on city-provided forms, shall be accompanied by all prescribed fees, and shall be complete in all respects before the city shall accept it for filing.
 - (2) Schedules and instructions. Every proposal or request for commission action or recommendation shall be filed, processed, and considered in accordance with this section.
 - (3) Submission of supporting information. Information supporting a request or recommendation to approve or disapprove any proposal before the commission shall be submitted through the secretary in writing or to the commission in a public meeting.
 - (4) Withdrawal of proposal. When any applicant desires to withdraw his or her proposal he or she may do so by filing a written request with the secretary. Such request shall be effective upon the date of its official receipt; provided, however, that no such request shall be valid after notices have been mailed, except on action of the commission. Withdrawal of a proposal at any stage of its processing shall terminate all consideration of it by the city, and the case file shall be closed.

(Ordinance 9-24-1 (ord. 1), sec. 9, adopted 9/24/2001)

**ARTICLE 2.04
PERSONNEL**

Division 1

Generally**§ 2.04.001. Personnel policies and procedures.**

- (a) Generally. The city shall adopt and, from time to time as necessary and advisable, amend, modify, review and revise comprehensive personnel policies and procedures that shall be applicable to the officers and employees of the city. The mayor shall cause such policies and procedures, and any proposed modifications or amendments, to be drafted, prepared and recommended to the city council for review and action as necessary to serve the best interests of the city and its employees and citizens.
- (b) City council approval. All personnel policies and procedures of the city, and all revisions, modifications and amendments thereto, shall be approved by the city council, in its discretion, by resolution, and no such policies, procedures, revisions, modifications or amendments shall be in effect except as approved by the city council. Such policies, procedures, rules and regulations as are approved by ordinance of the city council shall be and remain in effect until thereafter repealed, modified or amended by resolution, and all, or any part of, such policies, procedures, rules, regulations, revisions, modifications and amendments may be repealed, deleted, modified or amended, at any time, by the city council acting in its discretion.
- (c) Employment contracts. The personnel policies and procedures, rules and regulations of the city shall never be construed or interpreted to create or result in any contract for employment, or to create, establish or result in any officer or employee of the city having or obtaining a property interest in any job, position, employment or future benefit with the city. The city is an at-will employer and it is the policy of the city that all officers and employees of the city shall be employees at-will. Save and except for a written contract executed by and between the city and an individual officer or employee, if any, which written contract is approved by majority vote of the city council, acting at a duly noticed public meeting, with the advice and counsel of the city attorney, no officer or employee of the city shall have and obtain, by implication or otherwise, any employment contract with the city.
- (d) Interpretation and construction. The personnel policies and procedures, rules and regulations of the city, as approved by resolution from time to time, shall be interpreted and construed consistent with this section and in a manner consistent with the city being and remaining an at-will employer.

(Ordinance 6-11-01 (ord. 2) adopted 6/11/2001)

§ 2.04.002. Grievance procedures.

The city council may from time to time designate a director of personnel for the city. If no other officer is specifically designated as the director of personnel, the mayor shall be the director of personnel.

- (1) The director of personnel for the city is hereby designated to coordinate the city's compliance efforts under state and federal law, and is designated to receive complaints and grievances related to discrimination and employee actions, and complaints or grievances filed by the citizens against employees of the city, and complaints filed by employees against any other officer or employee of the city.
- (2) A complaint or grievance may be filed in writing with the director of personnel at city hall and shall contain the name, address and telephone number of the person filing the complaint, and shall be sworn to and briefly describe the persons, incidents and other relevant matters forming the basis of the complaint or grievance. The complaint shall also include, as appropriate, action requested for the proposed resolution of the complaint or grievance.
- (3) A complaint or grievance shall be filed within thirty (30) days after the complainant becomes aware of the incidents forming the basis of the complaint or grievance.
- (4) An investigation, as may be appropriate, shall follow a filing of a complaint or grievance. The director of personnel shall conduct a preliminary investigation. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint or grievance. If not informally and finally resolved prior to the first city council meeting, for which notice may be given, after the filing of the complaint or grievance, the matter shall then be placed on the agenda for the city council meeting. The city council shall then hear the matter, complete the investigation, assign the matter to an officer of the city or third party to investigate, and shall make the final decision on the complaint or grievance.
- (5) A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the director of personnel or the city council, and a copy forwarded to the complainant no later than sixty (60) days after its filing.
- (6) If an employee of the city is involved in the incident, and the matter is not dealt with directly by the city council, the director of personnel or other officer or party directed to investigate the complaint or grievance shall make a report and recommendation to the city council, including the appropriate action, e.g., sanction, punishment, dismissal of the complaint, a finding of not guilty or justification, at a city council meeting.
- (7) The director of personnel shall maintain the files and records of the city relating to the complaints filed.
- (8) The complainant can request a reconsideration of the case, and the party complained against may appeal, in instances where he or she is dissatisfied with the resolution of the complaint or grievance. The request for reconsideration, and any appeal, shall be made within ten (10) days to the city secretary, and shall request the city council to reconsider the action and findings on the complaint or grievance.

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- (9) Complaints, grievances, requests for reconsideration and appeals shall be placed on the next city council agenda, for which notice may be given, in due order of business for review and consideration by the city council.
- (10) The action of the city council on complaints and grievances shall be final and binding on all parties, subject only to requests for reconsideration and appeals as provided in this section. The action of the city council on requests for reconsideration and appeals shall be final and binding on all parties, and there shall be no further appeal therefrom.

(Ordinance 99HR, sec. 3, adopted 5/17/2010)

§ 2.04.003. through § 2.04.030. (Reserved)

Division 2

City Secretary

§ 2.04.031. Appointment and removal.

The city council shall appoint the city secretary by majority vote. The position of city secretary shall be an at-will position, removable with or without cause, serving at the pleasure of the city council. Any vacancy in the office of secretary shall be filled by the city council.

(Ordinance 1-17-00 (ord. 2), sec. 2, adopted 1/17/2000)

§ 2.04.032. Powers and duties.

- (a) The secretary of the city shall attend each meeting of the governing body [TEXT ILLEGIBLE][??] and shall keep, in a record provided for that purpose, accurate minutes of the governing body proceedings.
- (b) The secretary shall:
- (1) Engross and enroll all laws, resolutions, and ordinances of the governing body;
 - (2) Keep the corporate seal;
 - (3) Take charge of, arrange, and maintain all records of the governing body;
 - (4) Countersign all commissions issued to the city officers and all licenses issued by the mayor, and keep a record of those commissions and licenses; and prepare all notices required under any regulation or ordinance of the city.
- (c) The secretary shall notify the state judicial council of each person who is elected or appointed as mayor, municipal court judge or clerk of the municipal court of the city. The secretary shall notify the judicial council within 30 days after the date of the person's election or appointment.
- (d) The secretary shall draw all the warrants on the treasurer, countersign the warrants and keep, in a record provided for that purpose, an accurate account of the warrants.
- (e) The secretary serves as the general accountant of the city and shall keep regular accounts of the city receipts and disbursements. The secretary shall keep each cause of

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receipt and disbursement separately and under proper headings. The secretary shall also keep separate accounts with each person, including each officer, who has monetary transactions with the city. The secretary shall credit accounts allowed by proper authority and shall specify the particular transaction to which each entry applies. The secretary shall keep records of the accounts and other information covered by this division.

- (f) The secretary shall keep a register of bonds and bills issued by the municipality and all evidence of debt due and payable to the city, noting the relevant particulars and facts as they occur.
- (g) The secretary shall carefully keep all contracts made by the governing body.
- (h) The secretary shall perform all other duties required by state law, or by ordinance, resolution, or order of the governing body.

(Ordinance 1-17-00 (ord. 2), sec. 3, adopted 1/17/2000)

§ 2.04.033. Ex officio city treasurer.

In the absence of an appointed city treasurer, the city secretary shall serve as the ex officio city treasurer and as such shall:

- (1) Execute a bond:
 - (A) The bond shall be in the favor of the city;
 - (B) Shall be in the form and amount required by the governing body of the city;
 - (C) Have security approved as sufficient by the governing body; and
 - (D) Be conditioned that the treasurer will faithfully discharge the duties of the office.
- (2) The treasurer shall receive and securely keep all money belonging to the city. The treasurer shall make all payments on the order of the mayor, attested by the secretary of the city under the seal of the city. The treasurer may not pay an order unless the face of the order shows that the governing body directed issuance of the order and shows the purpose for which it is issued.
- (3) The treasurer shall render to the governing body a full statement of the receipts and payments. The statement must be rendered at the governing body's first regular meeting in every quarter and at other times are required by the governing body.
- (4) The treasurer shall perform other acts and duties as the governing body requires.

(Ordinance 1-17-00 (ord. 2), sec. 4, adopted 1/17/2000)

§ 2.04.034. Ex officio tax assessor and collector.

In the absence of a contract with the central appraisal district, the city secretary shall serve as the ex officio tax assessor and collector for the city.

(Ordinance 1-17-00 (ord. 2), sec. 5, adopted 1/17/2000)

**ARTICLE 2.05
POLICE**

Division 1
Generally

§ 2.05.001. through § 2.05.030. (Reserved)

Division 2
Racial Profiling Policy

§ 2.05.031. Approval and adoption.

The city racial profiling policy, attached to Ordinance 12-17-01 (ord. 4) as exhibit “A” (the “policy”), is hereby approved and adopted. The racial profiling policy shall be and remain in full force and effect until such time as repealed, modified or amended by resolution or ordinance of the city council. Where the policy conflicts with the Code of Criminal Procedure or a specific department policy, the more restrictive shall govern.

(Ordinance 12-17-01 (ord. 4), sec. 2, adopted 12/17/2001)

§ 2.05.032. Orders of chief of police.

The chief of police is responsible for the day-to-day operation of the police department and must operate and manage the police department in a manner consistent with the policies and procedures of the city, the laws of the state and federal government, the Code of Criminal Procedure, and the public safety needs of the citizens. The chief may from time to time issue orders or specific policy statements for the police department that are consistent with the policy adopted herein for the police department and that are consistent with the personnel policies of the city as needed to guide officers and departmental practices not specifically addressed in the policy or that vary the policies as needed to create policies that will comply with changes in the law. The chief of police shall cause such policies and procedures, and any proposed modifications or amendments, to be drafted, prepared and recommended to the city council for review and action as necessary to serve the best interests of the city and the police department employees and citizens.

(Ordinance 12-17-01 (ord. 4), sec. 2, adopted 12/17/2001)

§ 2.05.033. City council approval.

The racial profiling policies and procedures of the police department of the city, and all revisions, modifications and amendments thereto, shall be approved by the city council, in its discretion, by resolution, and no such policies, procedures, revisions, modifications or amendments shall be in effect except as approved by the city council acting by resolution. Such policies, procedures, rules and regulations as are approved by resolution of the city council shall be and remain in effect until thereafter repealed, modified or amended by resolution, and all, or any part of, such policies, procedures, rules, regulations, revisions,

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modifications and amendments may be repealed, deleted, modified or amended, at any time, by the city council acting in its discretion.

(Ordinance 12-17-01 (ord. 4), sec. 4, adopted 12/17/2001)

§ 2.05.034. Audio and video equipment.

- (a) The chief of police shall immediately, upon enactment of this policy, commence examination of the feasibility of installing video camera equipment and transmitter-activated equipment in any city motor vehicle, now owned or acquired after passage of this policy, regularly used to make traffic stops, and transmitter-activated equipment in each city motorcycle, now owned or acquired after the passage of this policy, regularly used to make traffic stops, and shall report to the city council any such vehicles which are not equipped with adequate equipment. The report shall include funding options available to the city, including any funding available through the department of public safety.
- (b) In the event that the findings of such examination support the installation of additional equipment in any motor vehicle required to be equipped but not already equipped, the chief of police is authorized and directed to apply for funding to secure the additional equipment and, if funds are available, shall take such actions as necessary to ensure installation of such additional equipment as expeditiously as feasible. The chief of police is authorized and directed to certify to the department of public safety any need for additional equipment for which funds are not available. On receipt of either sufficient funds or video and audio equipment, the chief of police shall direct such actions as necessary to expeditiously install and begin the operation of video and transmitter-activated equipment in each motor vehicle regularly used to make traffic stops, and shall direct such actions as necessary to expeditiously install and begin the operation of transmitter-activated equipment on each motorcycle regularly used to make traffic stops. The chief of police is authorized and directed to certify to the department of public safety that such equipment has been installed and is being used to record each traffic and pedestrian stop made by a peace officer employed by the city that is capable of being recorded by video and audio or audio equipment, as appropriate.

(Ordinance 12-17-01 (ord. 4), sec. 5, adopted 12/17/2001)

§ 2.05.035. Interpretation and construction.

The policies and procedures, rules and regulations of police department shall be interpreted and construed consistent with the Code of Criminal Procedure. The general policies and procedures of the police department shall not be interpreted or construed as creating third-party rights. The policies and procedures, rules and regulations of the police department shall be interpreted as a general guideline to be used by the police department to promote professionalism and organizational development. Nothing in the policy, or its amendments, shall be interpreted or construed as an obligation, mandate, requirement or agreement of the city or the police department to function or operate in the manner or methods described therein.

(Ordinance 12-17-01 (ord. 4), sec. 6, adopted 12/17/2001)

§ 2.05.036. Governmental immunity.

Nothing in this policy shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the city, the police department or its employees nor to create any legal rights or claims on behalf of any third party. Neither the city, the police department nor its employees waives, modifies or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

(Ordinance 12-17-01 (ord. 4), sec. 7, adopted 12/17/2001)

ARTICLE 2.06
MUNICIPAL COURT OF RECORD

§ 2.06.001. Established.

There is hereby created a municipal court of record in and for the city, to be designated as the “Municipal Court of Record in the City of Holland,” based on state law, to provide more efficient disposition of cases. The court shall have no term and may sit at any time for the transaction of business of the court. Where the term “municipal court” is used in any city ordinance, it shall mean the municipal court of record created herein. Any city ordinance or state law that is applicable to a municipal court shall be applicable to the municipal court of record created herein, unless the provision is in conflict or inconsistent with the Texas Government Code, chapter 30, as amended, which governs the municipal courts of record.

(Ordinance adopted 6/22/2020, pt. 1)

§ 2.06.002. Court facilities and seal.

The city council shall provide a courtroom, jury room, furniture, and other facilities and supplies the council deems necessary for the proper operation of the municipal court of record. The city council shall provide the municipal court of record with a seal in conformity with article 45.012, Texas Code of Criminal Procedure, containing the phrase “Municipal Court of Holland, Texas.”

(Ordinance adopted 6/22/2020, pt. 2)

§ 2.06.003. Jurisdiction.

The municipal court of record shall have the jurisdiction provided by general law for municipal courts. The municipal court of record shall also have:

- (1) Civil jurisdiction for the purpose of enforcing municipal ordinances under subchapter A, chapter 214, Local Government Code, or subchapter E, chapter 683, Transportation Code;
- (2) Concurrent jurisdiction with a district court or county court at law under subchapter B, chapter 54, Texas Local Government Code, as amended, within the city’s territorial limits and property owned by the city located in the city’s extraterritorial jurisdiction for the purpose of enforcing health and safety nuisance and abatement ordinances; and

(3) Authority to issue:

- (A) Search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and
- (B) Seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

(Ordinance adopted 6/22/2020, pt. 3)

§ 2.06.004. Judge and alternate judges.

- (a) The municipal court of record is presided over by a municipal judge who shall be appointed by the city council for a term of two years and shall be entitled to compensation as set by the city council. The amount of the judge's compensation may not be diminished during the judge's term of office. The compensation may not be based directly or indirectly on fines, fees, or costs collected by the court.
- (b) The municipal judge must be a citizen of the United States, a resident of the State of Texas, a licensed attorney in good standing and have two or more years of experience in the practice of law in the State of Texas. In the event of a vacancy in the office of the municipal judge, the city council may appoint a qualified person to fill the vacancy and to preside over the municipal court of record for the remainder of the unexpired term.
- (c) A person may not serve as a municipal judge if the person is employed as an employee of the city. A municipal judge who accepts employment with the city vacates the judicial office.
- (d) The city council may appoint alternate judges, subject to the same qualifications as the municipal judge, who shall have all the powers and shall discharge all the duties of the municipal judge while serving as municipal judge. Each appointment shall be for a term of two years. The municipal judges may exchange benches and act for each other in any proceeding pending in the court. An act performed by any of the judges is binding on all parties to the proceeding.
- (e) The municipal judge and alternate judges shall take judicial notice of state law and the ordinances and corporate limits of the city and shall have all powers and authority as provided by section 30.00006 of the Texas Government Code, as amended. The judges may grant writs of mandamus, attachment, and other writs necessary to the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court. A municipal judge is a magistrate and may issue administrative search warrants.
- (f) The municipal judge shall supervise the selection of persons for jury service.

(Ordinance adopted 6/22/2020, pt. 4)

§ 2.06.005. Court clerk.

- (a) The city secretary or their designee shall appoint the clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk or the clerk's deputies shall have all duties and authority as provided by section 30.00009 of the Texas Government Code, as amended.
- (b) The court clerk shall acquire and maintain a seal in conformance with state law for the municipal court of record in the city.
- (c) The court clerk shall supervise the selection of persons for jury service in the municipal court of record.

(Ordinance adopted 6/22/2020, pt. 5)

§ 2.06.006. Record of proceedings.

Proceedings of the municipal court of record, limited to trial testimony and hearings on motions before the court, shall be recorded. For the purpose of recording these proceedings and preserving a record in cases tried before the municipal court of record, a good quality electronic recording device shall be used. When the recording device is used, a court reporter need not be present at the trial to certify the reporter's record. The recording shall be kept and stored for a 20-day period beginning the date after the last day of the proceeding, trial or denial of motion for a new trial, whichever occurs last. If the case is appealed, the proceedings shall be transcribed by an official court reporter.

(Ordinance adopted 6/22/2020, pt. 6)

§ 2.06.007. Appeals.

- (a) Right of appeal. A defendant has the right of appeal from a judgment or conviction in the municipal court of record. The state has the right to appeal as provided by Texas Code of Criminal Procedure section 44.01, as amended.
- (b) Appeal bond. The defendant must not take an appeal until he files an appeal bond with the municipal court of record. The bond must be approved by the court and filed not later than the 10th day after the date on which the motion for new trial is overruled. The bond must be in the amount of \$100.00 or double the amount of the fines and costs adjudged against the defendant, whichever is greater.
- (c) Fee. A defendant must pay the fee set forth in the fee schedule in appendix A of this code for preparation of the clerk's record not later than ten days after the date on which the motion for new trial is overruled. The court shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant.
- (d) Payment for reporter's record. The appellant shall pay for any reporter's record containing a transcription of the proceeding. Before the recorded proceedings are transcribed, the defendant shall, unless found by the court to be unable to pay for the reporter's record, post a cash deposit with the municipal court for the estimated cost of the record. The cash deposit shall be based on an estimate provided by the court

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reporter or the length of the proceedings as indicated by the amount of tape. If the cash deposit exceeds the actual cost of the reporter's record, the court reporter shall refund the difference to the defendant. If the cash deposit is insufficient to cover the actual cost of the transcription, the appellant must pay the additional amount due before the transcription may be submitted. If a case is reversed on appeal, the court shall promptly refund to the appellant any amounts paid for the reporter's record.

(Ordinance adopted 6/22/2020, pt. 7; Ordinance adopting Code)

ARTICLE 2.07 CLAIMS AGAINST CITY

§ 2.07.001. Notification requirements.

Before the city shall be liable in any suit, including suits for damages, injury or destruction to property of any kind or nature or for damages, torts or injuries to persons of any kind or nature, in the event the injury results in death or injuries to another, the person or persons who may have a cause of action under the law by reason of such death or injury, shall, within sixty (60) days or for good cause shown within six (6) months from the date the damage or injury was received, serve written notice upon the mayor and city council which includes all of the following information:

- (1) The date and time when the injury or damage occurred and the location of the incident.
- (2) The nature of the damage or injury sustained.
- (3) The apparent extent of the damage or injury sustained.
- (4) A specific and detailed statement of the facts of the incident 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 and the actual residence of such claimant for the six months immediately preceding the incident.
- (7) In the case of personal injury, tort claims, or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury or any part thereof and the names of the doctors, if any, to whose care the injured person is committed.
- (8) In the case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the incident or any part thereof or who have relevant information.

(Ordinance 8-16-99, sec. 1, adopted 8/16/1999)

§ 2.07.002. Suits.

No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff(s) therein shall aver and prove that prior to the filing of the original petition the

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plaintiff(s) complied with the notification requirements set forth herein and did thereby request from the city council the redress, satisfaction, compensation, or relief demanded in such suit, and that the same was by vote of the city council refused.

(Ordinance 8-16-99, sec. 2, adopted 8/16/1999)

§ 2.07.003. Service of notices.

All notices required herein must be served upon the mayor and the city council by certified mail or by personally serving said persons. All such notices shall be effective only when actually received. The claimant must prove that service upon the appropriate persons was perfected as herein required.

(Ordinance 8-16-99, sec. 3, adopted 8/16/1999)

§ 2.07.004. Failure to notify.

Failure to notify the mayor and city council within the time and manner provided herein shall exonerate, excuse and exempt the city from any liability whatsoever.

(Ordinance 8-16-99, sec. 4, adopted 8/16/1999)

§ 2.07.005. Waiver of requirements.

No person may waive the notification requirements established herein. Actual knowledge of the incident shall not constitute a waiver of the requirement of a written notification and service of such notice.

(Ordinance 8-16-99, sec. 5, adopted 8/16/1999)

**ARTICLE 2.08
RECORDS MANAGEMENT**

§ 2.08.001. Definition of municipal records.

All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tapes, 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.

(Ordinance 2-AD-AZ, sec. 1, adopted 3/14/1994)

§ 2.08.002. Additional definitions.

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

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Essential record means 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.

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

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

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

Records management officer means the person designated in section 2.08.005 of this article.

Records management plan means the plan developed under section 2.08.006 of this article.

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

(Ordinance 2-AD-AZ, sec. 2, adopted 3/14/1994)

§ 2.08.003. Municipal records declared public property.

All municipal records as defined in section 2.08.001 of this article are hereby declared to be the property of the city. No municipal official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

(Ordinance 2-AD-AZ, sec. 3, adopted 3/14/1994)

§ 2.08.004. 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.

(Ordinance 2-AD-AZ, sec. 4, adopted 3/14/1994)

§ 2.08.005. Designation of records management officer.

The city secretary, and the successive holders of said office, shall serve as records management officer for the city. As provided by state law, each successive holder of the office shall file his or her name with the director and librarian of the state library within thirty days of the initial designation or of taking up the office, as applicable.

(Ordinance 2-AD-AZ, sec. 5, adopted 3/14/1994)

§ 2.08.006. 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 mayor. The 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 plan must be designed to enable the records management officer to carry out his or her duties prescribed by state law and this article effectively.
- (b) Once approved by the mayor the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the city and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.
- (c) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this article and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the city.

(Ordinance 2-AD-AZ, sec. 6, adopted 3/14/1994)

§ 2.08.007. 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;

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- (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 record 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 mayor 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 are 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 mayor 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); and
- (12) Bring to the attention of the mayor noncompliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act.

(Ordinance 2-AD-AZ, sec. 7, adopted 3/14/1994)

§ 2.08.008. 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 or her staff are responsible; and
- (3) Maintain the records in his or her 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.

(Ordinance 2-AD-AZ, sec. 8, adopted 3/14/1994)

§ 2.08.009. 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 mayor.
- (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 record control schedules to the director and librarian.

(Ordinance 2-AD-AZ, sec. 9, adopted 3/14/1994)

§ 2.08.010. Implementation of records control schedules; destruction of records under schedule.

- (a) A records control schedule for a department that has been approved and adopted under section 2.08.009 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 mayor.

(Ordinance 2-AD-AZ, sec. 10, adopted 3/14/1994)

§ 2.08.011. 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.

(Ordinance 2-AD-AZ, sec. 11, adopted 3/14/1994)

ARTICLE 2.09
FINANCES

Division 1
Generally

§ 2.09.001. through § 2.09.030. (Reserved)

Division 2

Cash Management and Investment Policy

§ 2.09.031. Scope.

This investment policy applies to all financial assets of the city and includes all funds of the city. These funds are and are to be accounted for in the city's comprehensive annual report.

(Ordinance 01-14-02 (ord. 1), sec. 1.1001, adopted 1/14/2002)

§ 2.09.032. Statement of philosophy.

The city shall maintain a comprehensive cash management program, to include the effective collection of all accounts receivable, the prompt deposit of receipts to the city's bank accounts, the payment of obligations so as to comply with state law and in accord with vendor invoices, and the prudent investment of idle funds in accord with this policy and the Public Funds Investment Act (in this division, the "Act").

(Ordinance 01-14-02 (ord. 1), sec. 1.1002, adopted 1/14/2002)

§ 2.09.033. Objectives.

The city's investment program shall be conducted to accomplish the following objectives, listed in priority order:

- (1) Safety of principal invested in a manner to seek preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that the potential losses on individual securities do not exceed the income generated from the remainder of the portfolio;
- (2) Liquidity of the city's investment portfolio to ensure the city is able to meet all obligations which might be reasonably anticipated in a timely manner. This shall be achieved by matching investment maturities with forecasted cash flow requirements and by investing in securities with active secondary markets;
- (3) Yield of the investment portfolio shall be designed with the objective of attaining an overall market rate of return throughout budgetary and economic cycles, commensurate with the city's investment risk constraints and cash flow characteristics of the portfolio; and
- (4) Investment of idle cash at the highest possible rate of return, consistent with the Act and local laws and the three (3) objectives listed above.

(Ordinance 01-14-02 (ord. 1), sec. 1.1003, adopted 1/14/2002)

§ 2.09.034. Designation and duties of city's investment officer.

The finance director, as the city's chief financial officer, is responsible for overall management of the city's investment program and is designated as the city's investment officer. Accordingly, the finance director is responsible for day-to-day administration of the investment program and for the duties listed below:

- (1) Maintain a general accounting system for the city and exercise financial control over all offices, departments and agencies thereof;
- (2) Maintain current information as to available cash balances in city accounts and as to the amount of idle cash available for investment;
- (3) Certify the availability of funds for all proposed expenditures. Unless the finance director shall certify that an unencumbered balance exists in the appropriations and funds available, no appropriation shall be encumbered and no expenditure shall be made;
- (4) Make investments in accord with the Act;
- (5) Ensure that all investments are adequately secured; and
- (6) Submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city.

(Ordinance 01-14-02 (ord. 1), sec. 1.1004, adopted 1/14/2002)

§ 2.09.035. Judgment.

- (a) Investments shall be made with judgment and care, under circumstances then prevailing, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.
- (b) The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing the overall portfolio. Investment officers acting in accordance with written procedures, the Act and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate actions is taken to control adverse developments.

(Ordinance 01-14-02 (ord. 1), sec. 1.1005, adopted 1/14/2002)

§ 2.09.036. Diversification.

It is the policy of the city to diversify its investments to eliminate the risk of loss resulting from over-concentration of assets in a specific maturity, a specific issuer or a specific class of securities. The following general constraints shall apply: maturities shall be staggered to avoid undue concentration of assets in a specific maturity sector and maturities selected shall provide for stability of income, reasonable liquidity, and consistent with the Act; with the exception of U.S. Treasury securities and authorized pools, no more than 50% of the city's

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total investment portfolio will be invested in a single security type or with a single financial institution.

(Ordinance 01-14-02 (ord. 1), sec. 1.1006, adopted 1/14/2002)

§ 2.09.037. Documentation of transactions.

The finance director shall document all investment transactions. The finance director shall establish a process for annual independent review by an external auditor to assure compliance with policies and procedures. The internal controls shall address the following points:

- (1) Control of collusion;
- (2) Separation of transaction authority from accounting and record keeping;
- (3) Custodial safekeeping;
- (4) Avoidance of physical delivery securities;
- (5) Clear delegation of authority to subordinate staff members;
- (6) Written confirmation for telephone (voice) transactions for investments and wire transfers; and
- (7) Development of a wire transfer agreement with the depository bank or third-party custodian.

(Ordinance 01-14-02 (ord. 1), sec. 1.1007, adopted 1/14/2002)

§ 2.09.038. Investment strategies and authorized investments.

Assets of the city may be invested in instruments, funds, banks and securities permitted by the Public Funds Investment Act; however, at no time shall assets of the city be invested in any instrument or security not authorized for investment under the Act, as the Act may be amended from time to time.

- (1) Investment strategy considerations. The city shall maintain portfolios which utilize four specific investment strategy considerations designed to address the unique characteristics of the fund groups represented in the portfolios:
 - (A) Operating funds and commingled funds containing operating funds.
 - (i) The primary objective will be liquidity and reasonable market yield. Funds will be invested in accordance with the investment policy. The authorized securities chosen or pool utilized for this portfolio are of the highest credit quality and marketability supporting the city's objectives of safety and liquidity. Securities, when not matched to a specific liability, will be of a liquid nature to provide adequate liquidity for the city. The portfolio shall be diversified to protect against market and credit risk in any one sector. Diversification requirements can be fully met through use of an authorized investment pool.

- (ii) Weighted average maturity on the pooled investment group will be of no greater than ninety (90) days. Because the funds are pooled for investment purposes, the portfolio will address the varying needs of all funds in the pooled fund, recognizing liquidity needs as well as the desire to extend slightly for incremental return on core funds in the pool.
 - (B) Debt service funds. Investment strategies for debt service funds shall have as the primary objective the assurance of investment liquidity adequate to cover the debt service obligation on the required payment date. Since this is one of the highest priorities of the city, securities will be chosen with the highest priorities of safety. Securities will be chosen for their maturity dates and not require the highest degree of diversification. Securities purchased shall not have a stated final maturity date which exceeds the next debt service payment date until that date is fully funded, and shall be chosen secondarily with regard to yield and diversification. The weighted average maturity on the pooled investment group will be greater than one hundred eighty (180) days.
 - (C) Debt service reserve funds. Investment strategies for debt service reserve funds shall have as the primary objective the ability to generate a safe dependable revenue stream to the appropriate debt service fund from securities with a low degree of risk. Except as may be required by the bond ordinance specific to an individual issue, securities should be of high credit quality, with short-to intermediate-term maturities. The funds will have a maximum weighted average maturity of two hundred seventy (270) days.
 - (D) Special projects and special purpose funds. Investment strategies for special projects or special purpose fund portfolios will have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity for the safety of the funds and the completion of the targeted projects. These portfolios should include at least 10% in highly liquid securities to allow for flexibility and marketability of the securities should funds be needed for unanticipated project outlays. A diversified portfolio structured with laddered maturities to match anticipated cash flows will be used to provide a reasonable market yield in those comparable maturity sector. The stated final maturity dates of securities held should not exceed the estimated project completion date. The funds will have a maximum weighted average maturity of one hundred eighty (180) days.
- (2) Investment portfolio. Assets of the city may be invested in the following instruments; provided, however, that at no time shall assets of the city be invested in any instrument or security not authorized for investment under the Act:
- (A) Obligations of the United States of America or its agencies and instrumentalities with a maximum maturity of eighteen (18) months.
 - (B) Direct obligations of this state or its agencies and instrumentalities with a maximum maturity of eighteen (18) months.
 - (C) Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or

United States or their respective agencies and instrumentalities with a maximum maturity of eighteen (18) months.

- (D) Obligations of the state, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm, and having received a rating of not less than “A” or its equivalent with a maximum maturity of eighteen (18) months and conforming with chapter 2256, Texas Government Code.
 - (E) Bank checking accounts, time deposits or certificates of deposit of state and national banks domiciled in Texas, guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or secured by obligations described in subsections (A) through (D) above. Deposits may also be collateralized by mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of certificates, but excluding those mortgage backed securities of the nature prohibited by the Act, or secured in any other manner and amount provided by law for deposits of the city.
 - (F) Fully collateralized direct repurchase agreements with a designated termination date secured by obligations of the United States or its agencies and instrumentalities pledged with a third party, selected by the director of finance, other than an agency for the pledgor. Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state, and governed by an executed PSA Master Repurchase Agreement.
 - (G) A no load money market mutual fund if the mutual fund is regulated by the Securities and Exchange Commission, has a dollar-weighted average stated maturity of ninety (90) days or fewer, and includes in its investment objectives the maintenance of a stable net asset value of \$1.00 for each share and complies with the Act.
 - (H) Investment pools formed in accordance with and conforming to the requirements of the Act and which invest funds received from the city in authorized investments permitted by the Act.
- (3) Safekeeping and custody. All securities transactions, including collateral for repurchase agreements, entered into by the city shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by a third-party custodian designated by the finance director and evidenced by safekeeping receipts.
- (4) Maximum maturities. To the extent possible, the city will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the city will not directly invest in securities maturing more than eighteen (18) months from the date of purchase. However, the city may collateralize its repurchase agreements using longer dated investments not to exceed ten years to maturity. Reserve funds may be invested in securities exceeding eighteen (18) months if the maturity of such investments is made to coincide as nearly as practicable with the expected use of the funds.

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- (5) Performance standards. The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs.
- (6) Market yield. The basis used by the officer responsible for investments to determine whether market yields are being achieved shall be the ninety (90) day U.S. Treasury Bill rate to conform to an anticipated ninety (90) day weighted average maturity of the portfolio.

(Ordinance 01-14-02 (ord. 1), sec. 1.1008, adopted 1/14/2002)

§ 2.09.039. Qualified institutions.

- (a) The finance director will maintain a list of financial institutions authorized to provide investment services. In addition to a list, the finance director will also maintain a list of approved security broker/dealers selected by creditworthiness who are authorized to provide investment services in the State of Texas. These may include “primary” dealers or regional dealers that qualify under the Securities and Exchange Commission uniform net capital rule. No public deposit shall be made except in a qualified public depository as established by state laws.
- (b) All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the finance director the following: latest audited financial statements, proof of state registration, NASD certification (regional brokers only), the broker-dealer questionnaire and certification of having read the city’s investment policy.

(Ordinance 01-14-02 (ord. 1), sec. 1.1009, adopted 1/14/2002)

§ 2.09.040. Collateral.

- (a) Collateralization will be required on two types of investments: certificates of deposit and repurchase agreements. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value of principal and accrued interest. Items that are acceptable for collateral include those authorized investments conforming with the Act. Deposits may also be collateralized by mortgaged backed securities directly issued by a federal agency or instrumentality in accordance with the Act.
- (b) Collateral will always be held by an independent third party with whom the city has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the city and retained.
- (c) The right of collateral substitution, in compliance with the Act, is granted with prior approval of the city.

(Ordinance 01-14-02 (ord. 1), sec. 1.1010, adopted 1/14/2002)

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§ 2.09.041. Bids for certain investments.

In order to get the best return on its investment, the city may solicit bids in writing, by telephone or electronically, except in circumstances in which a competitive bid is required.

(Ordinance 01-14-02 (ord. 1), sec. 1.1011, adopted 1/14/2002)

§ 2.09.042. Quarterly reports.

Not less than quarterly, the finance director shall prepare and submit to the city council and the city manager a signed, written report of investment transactions for all funds covered by this division for the preceding reporting period in conformance with the Act.

(Ordinance 01-14-02 (ord. 1), sec. 1.1012, adopted 1/14/2002)

**ARTICLE 2.10
TAXATION**

Division 1
Generally

§ 2.10.001. through § 2.10.030. (Reserved)

Division 2
Property Tax

§ 2.10.031. County tax assessor-collector to act as tax assessor-collector for city.

- (a) Pursuant to ==V.T.C.S., article 7359, the Bell County tax assessor-collector is hereby authorized to act as tax assessor-collector for the city.
- (b) The Bell County tax assessor-collector shall receive for such services one percent of the taxes so collected.

(Ordinance 16-1/2-TAX-O adopted 2/14/1978)

§ 2.10.032. Tangible personal property in transit (goods-in-transit).

The goods-in-transit, as defined Texas Tax Code 11.253(a)(2), as amended by Senate Bill 1, enacted by the 82nd Texas Legislature, shall remain subject to taxation by the city.

(Resolution adopted 11/14/2011)

§ 2.10.033. Tax on automobiles.

Automobiles shall remain on the tax rolls as taxable property for the year 1989 and henceforth until further action of the councilmen.

(Ordinance 16-1/2-TAX-L adopted 2/14/1989)

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§ 2.10.034. through § 2.10.060. (Reserved)

Division 3
Sales and Use Tax

§ 2.10.061. Sales and use tax elections.

Ordinances calling elections as well as those certifying election results for the imposition of sales and use taxes are on file in the office of the city secretary.

(Ordinance adopting Code)

§ 2.10.062. Tax on sale of gas and electricity for residential use.

The city, by a majority vote of its governing body, hereby votes to retain the taxes authorized by the Local Sales and Use Tax Act (article 1066C, Vernon's Texas Civil Statutes) on the receipts from the sale, production, distribution, lease or rental of, and the use, storage, or other consumption of, gas and electricity for residential use, as authorized by section 6 of House Bill No. 1, Acts 1978, 65th Legislature, Second Called Session.

(Ordinance 2-AD-M adopted 8/29/1978)

§ 2.10.063. through § 2.10.090. (Reserved)

Division 4
Bingo Tax

§ 2.10.091. Gross receipts tax on bingo games.

Pursuant to ==article 179d, V.A.T.S., there is hereby imposed a two percent gross receipts tax on the conduct of bingo games held within the city.

(Ordinance 2-AD-C adopted 5/11/1982)

Chapter 3

ANIMAL CONTROL

**ARTICLE 3.01
GENERAL PROVISIONS**

- § 3.01.001. Definitions.
- § 3.01.002. Penalty.

**ARTICLE 3.02
PROHIBITIONS**

- § 3.02.001. Prohibited animals.
- § 3.02.002. Kennels and multi-animal ownership prohibited.
- § 3.02.003. Dead animals.

**ARTICLE 3.03
VACCINATIONS**

- § 3.03.001. Required.
- § 3.03.002. Certificate of vaccination.
- § 3.03.003. Rabies tag.
- § 3.03.004. Enforcement.

**ARTICLE 3.04
CONFINEMENT OF ANIMALS**

- § 3.04.001. Removal of animals from confinement.
- § 3.04.002. Animals at large.
- § 3.04.003. Confinement during estrus.
- § 3.04.004. Impoundment of animals.

**ARTICLE 3.05
ANIMAL BITES, CARE AND
NUISANCES**

- § 3.05.001. Reporting bites and scratches.
- § 3.05.002. Reporting suspected rabies.
- § 3.05.003. Quarantine of dogs and cats; disposition of wild, exotic or dangerous animals.
- § 3.05.004. Providing care.

- § 3.05.005. Cruel treatment.
- § 3.05.006. Abandonment.
- § 3.05.007. Giving away animal as prize or inducement.
- § 3.05.008. Duties of person striking animal with motor vehicle.
- § 3.05.009. Poisonous substances and traps.
- § 3.05.010. Theatrical exhibits.
- § 3.05.011. Creating health hazard.
- § 3.05.012. Tampering with traps and equipment of animal services officer.
- § 3.05.013. Authority to destroy injured and diseased animals.
- § 3.05.014. Nuisance animals.

**ARTICLE 3.06
DANGEROUS DOGS**

- § 3.06.001. Nonregisterable dangerous dogs prohibited; impoundment or destruction.
- § 3.06.002. Determination of nonregisterable dangerous dog.
- § 3.06.003. Notification of determination of nonregisterable dangerous dog.
- § 3.06.004. Status of nonregisterable dangerous dog pending appeal.
- § 3.06.005. Defense to determination of nonregisterable dangerous dog.
- § 3.06.006. Disposition of nonregisterable dangerous dog.
- § 3.06.007. Definition of registerable dangerous dog.

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| <p>§ 3.01.001</p> <p>§ 3.06.008. Determination of registerable dangerous dog.</p> <p>§ 3.06.009. Notification of determination of registered dangerous dog.</p> <p>§ 3.06.010. Status of registerable dangerous dog on appeal.</p> <p>§ 3.06.011. Defense to determination of registerable dangerous dog.</p> <p>§ 3.06.012. Disposition of registerable dangerous dog.</p> <p>§ 3.06.013. Requirements for registration and possession of registered dangerous dog.</p> | <p>HOLLAND CODE</p> | <p>§ 3.01.001</p> <p>§ 3.06.014. Attack by registered dangerous dog.</p> <p>§ 3.06.015. Violations; civil penalty.</p> <p>§ 3.06.016. Defense to prosecution.</p> <p>§ 3.06.017. Appeal of decision of municipal court.</p> <p style="text-align: center;">ARTICLE 3.07</p> <p style="text-align: center;">GUARD DOGS</p> <p>§ 3.07.001. Permit; warning signs; inspection of premises.</p> |
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ARTICLE 3.01
GENERAL PROVISIONS

§ 3.01.001. Definitions.

When used in this chapter, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

A zoning district means the Agricultural District, or such other zoning district designated to be used principally for agriculture and related uses by the city’s zoning ordinance.

Adequate shelter means a structure that is enclosed by at least three walls or sides and a roof, which structure is located such that the animal is protected from weather conditions.

Animal means any or all animals listed or defined, but not limited to, all animals in this chapter, including poultry, fowl, and livestock.

Animal commonly used in ordinary agriculture business means horses and all equine species, including mules, donkeys and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; pigs and all swine species; poultry, and fowl.

Animal services officer means any person designated by the city as the primary enforcement officer of the city for enforcement of the ordinances regulating animals and owners of animals and for the enforcement of sections of the Texas Statutes pertaining to the care and control of animals, or, absent such designation, any peace officer.

Animal shelter means any facility designated and/or operated by the city for the purpose of impounding and caring for animals held under authority of this chapter.

Dangerous animal means any warm-blooded mammal which is known to carry or be susceptible to the rabies virus and which cannot be effectively vaccinated against that virus with any vaccine approved by the state department of health [department of state health services]; any hybrid animal or any pet wildlife which has attacked a human or which is apprehended or observed unrestrained; and any venomous or carnivorous fish or reptile or any fish or reptile that grows over six feet in length.

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

Domestic bird means a bird kept or harbored as a household pet in cage in the home and carrier pigeons kept in a cage or other similar enclosure that is maintained in a clean and sanitary manner, whether such cage is located indoors or outdoors. Domestic birds shall not include poultry or fowl.

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

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

Harboring means:

- (1) The act of keeping and caring for an animal for any length of time; or
- (2) Providing a premises to which the animal returns for food, shelter or care for a period of three days or longer.

Nonregisterable dangerous dog means any dog which:

- (1) When unprovoked, severely attacked or inflicted serious injury or death to a person, whether on public or private property; or
- (2) Has been deemed nonregisterable by the animal services officer and upheld or unchallenged in the court of jurisdiction.

Nuisance means any animal that commits any of the acts listed herein:

- (1) Molests or chases pedestrians, passersby or passing vehicles, including bicycles, or molests, attacks or interferes with other animals or persons on public property or private property other than the owners;
- (2) Makes unprovoked attacks on other animals of any kind or engages in conduct which establishes such animal as a “dangerous animal”;
- (3) Is repeatedly at large; specifically, three or more times per 12-month period (excluding domestic cats);
- (4) Damages, soils or defiles public property or private property, other than property belonging to or under the control of the owner;
- (5) Repeatedly defecates on property not belonging to or under the control of its owner, unless such waste is immediately removed and properly disposed of by the owner of the animal (including domestic cats);
- (6) Barks, whines, howls, crows, cackles or makes any noise excessively and continuously, and such noise disturbs a person of ordinary sensibilities;

- (7) Produces odors or unclean conditions sufficient to annoy persons living in the vicinity;
or
- (8) Is unconfined when in heat.

Owner means any person who has right of property in an animal and/or is harboring an animal.

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

Quarantine means a period of ten days used for observation of a domestic or pet animal to determine the health status of that animal in relation to the rabies virus.

Quarantine by owner means an animal owner who quarantines with the permission of an animal services officer permission[??] under the following conditions:

- (1) The animal must have a current rabies vaccination;
- (2) The animal must be inside an enclosed structure, i.e., house or garage, and must remain there for ten days;
- (3) If maintained outside, the animal must be behind a fence from which it cannot escape and on a chain from which it cannot break loose or inside a covered pen or kennel from which it cannot escape. The length of the chain must prevent the animal from making contact with the fence in which it is kept;
- (4) The animal must be kept away from other animals and people except those in the immediate household;
- (5) The animal may not be removed from the corporate city limits while under quarantine;
- (6) The owner shall notify an animal services officer immediately if the animal becomes sick or displays any behavioral changes;
- (7) The owner shall not subject the animal to any medical procedure, without first notifying the animal services officer. This includes any vaccination;
- (8) The animal must be examined by a licensed veterinarian by the first day of home quarantine and again on the final day of quarantine. The owner shall be responsible for producing proof of the veterinarian examinations;
- (9) No animal that is at large or unleashed at the time of exposure may be quarantined by the owner;

- (10) The owner must allow an animal services officer, with reasonable notice, to view and confirm the health of the animal during the rabies quarantine period.

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

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

Running at large .

- (1) Running at large means an animal fitting into any of the following categories:
- (A) Any animal, except pet cats, which is not restrained by means of a leash, chain, or other physical apparatus of sufficient strength and length to control the actions of such animal, while the animal is not on its owner's property.
 - (B) Any cat which is creating a nuisance off its owner's property.
 - (C) Any animal, except domestic cats, not confined to the premises of the owner by a substantial fence of sufficient strength and height to prevent the animal from escaping therefrom, or secured on the premises by a chain or leash sufficient in strength to prevent the animal from escaping from premises and so arranged that the animal will remain upon the premises when the leash is stretched to full length.
 - (D) An animal intruding upon the property of another person other than the owner's.
 - (E) An unrestrained animal found on any street, alley or other public place in the city, or on any unenclosed lot.
- (2) Exception: Any animal within a vehicle in a manner that would prevent that animal's escape or contact with other persons or animals shall not be deemed "at large."

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

Severe attack means an attack in which the animal repeatedly bites, scratches, strikes, or mauls or vigorously shakes its victim, and the victim, or a person intervening, and[??] has difficulty terminating the attack.

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

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

Theatrical exhibition means any exhibition or act featuring performing animals. Such exhibitions shall not include resident or nonresident dog and cat shows which are sponsored and/or sanctioned by the American Kennel Club, the United States Kennel Club, the Cat

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Fanciers Association, the American Cat Fanciers Association, the International Cat Fanciers Association or any affiliate thereof nor shall it include any primary horse show or livestock show.

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

Veterinarian means any practitioner of veterinary medicine licensed by the State of Texas to practice such in Texas.

Wildlife means any animal which occurs naturally in a wild state. This includes any animal which is part wildlife.

(Ordinance 071706-1, exh. A, sec. 1.01, adopted 7/17/2006)

§ 3.01.002. Penalty.

Any person who violates any of the provisions of this chapter shall be guilty of misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$500.00. Each day of violation, each separate animal and each incident of violation of this chapter shall constitute a separate offense.

(Ordinance 071706-1, exh. A, sec. 1.02, adopted 7/17/2006)

**ARTICLE 3.02
PROHIBITIONS**

§ 3.02.001. Prohibited animals.

Except for parts of the city within the A zoning district, all animals, including poultry and fowl, are prohibited except for domestic dogs, domestic cats, domestic rabbits, and domestic birds; provided that no person may keep or harbor more than twelve domestic birds or twelve domestic rabbits. In areas within the A zoning district, all animals are prohibited except for domestic dogs, domestic cats, domestic rabbits, domestic birds, livestock, and other animals commonly used in ordinary agricultural business. Animals kept or harbored for the purpose of the owner’s participation in Future Farmers of America or a school sponsored project shall be exempt from this section.

(Ordinance 071706-1, exh. A, sec. 2.01, adopted 7/17/2006)

§ 3.02.002. Kennels and multi-animal ownership prohibited.

No person may operate a kennel or facility used for the commercial boarding or sale of animals. No person shall keep or harbor more than five cats or dogs or any combination of five cats and dogs. Puppies and kittens under four months of age shall not be counted for purposes of this section.

(Ordinance 071706-1, exh. A, sec. 2.02, adopted 7/17/2006)

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§ 3.02.003. Dead animals.

It is unlawful for any person in the city to cause to be placed or place, or allow to remain, in or near his premises or the premises of any other person, or in any of the streets or other public ways, any dead animal. There is no mental state requirement for this offense.

(Ordinance 071706-1, exh. A, sec. 2.03, adopted 7/17/2006)

**ARTICLE 3.03
VACCINATIONS****§ 3.03.001. Required.**

Every owner of a dog or cat over three months of age shall have such animal vaccinated against rabies. All such dogs or cats shall be revaccinated at one-year intervals thereafter. Any person establishing residence within the city shall comply with this chapter within ten days of establishing such residency. A rabies vaccine shall not be administered to the dog or cat until that animal is released from quarantine or quarantine by the owner.

(Ordinance 071706-1, exh. A, sec. 3.01, adopted 7/17/2006)

§ 3.03.002. Certificate of vaccination.

Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat, as evidence thereof, a certificate of vaccination. The veterinarian shall retain a duplicate copy of the certificate and one copy shall be filed with the owner. Such certificate shall contain the following information:

- (1) The name, address and telephone number of the owner of the vaccinated dog or cat;
- (2) The date of vaccination;
- (3) The type of rabies vaccine used;
- (4) The year and number of the rabies tag; and
- (5) The breed, age, color and sex of the vaccinated dog or cat.

(Ordinance 071706-1, exh. A, sec. 3.02, adopted 7/17/2006)

§ 3.03.003. Rabies tag.

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 animal a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance.

(Ordinance 071706-1, exh. A, sec. 3.03, adopted 7/17/2006)

§ 3.03.004. Enforcement.

For the purposes of discharging the duties imposed by this article and to enforce its provisions, any peace officer or animal services officer is empowered to enter upon any premises upon which an animal is kept or harbored and to demand the exhibition of the applicable vaccination information for each animal by the owner of such animal, to include random city-wide canvassing and checks for compliance with this article.

(Ordinance 071706-1, exh. A, sec. 3.04, adopted 7/17/2006)

**ARTICLE 3.04
CONFINEMENT OF ANIMALS****§ 3.04.001. Removal of animals from confinement.**

- (a) Removal of animal confined by another. It shall be unlawful for any person to remove or allow to escape from any place of confinement any animal which has been lawfully confined by another.
- (b) Removal of animal confined by city. It shall be unlawful for any person to remove or allow to escape from any place of confinement any animal which has been confined or ordered to be confined by the city or by an appropriate third-party agent of the city, without the express consent of the animal services officer.

(Ordinance 071706-1, exh. A, sec. 4.01, adopted 7/17/2006)

§ 3.04.002. Animals at large.

- (a) A person owning or harboring an animal commits a violation if the animal runs at large. There is no mental state requirement for this offense.
- (b) Any officer or citizen of the city is authorized to take up and deliver to the animal services officer any animal mentioned in this chapter that may be found at large in the corporate limits of the city, subject to the applicable provisions of the law. Failure to notify and/or turn over to the animal services officer any such animal within 48 hours may subject the person taking up the animal to civil and/or criminal action.

(Ordinance 071706-1, exh. A, sec. 4.02, adopted 7/17/2006)

§ 3.04.003. Confinement during estrus.

Any unspayed female dog or cat in the state of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure and the area of enclosure shall be so constructed that no other dog or cat may gain access to the confined animal. Owners who do not comply shall be ordered to immediately remove the animal in heat to a veterinary hospital or an animal shelter.

(Ordinance 071706-1, exh. A, sec. 4.03, adopted 7/17/2006)

§ 3.04.004. Impoundment of animals.

- (a) The city may contract with or allow qualified third parties (including via an interlocal agreement with another governmental entity) to impound an animal if the animal is owned or housed in violation of any applicable law, ordinance, regulation, or rule, if the animal is at large in violation of this chapter, if the animal is a nuisance, if the animal is an unspayed female dog or cat the state of estrus (heat) to which other animals may gain access, or if the animal is a danger to public health or safety.
- (b) The animal services officer must approve a third-party agent's procedures regarding fees, return of animals to owners, and disposition of unreturned animals before allowing or contracting with the third party to impound an animal.

(Ordinance 071706-1, exh. A, sec. 4.04, adopted 7/17/2006)

**ARTICLE 3.05
ANIMAL BITES, CARE AND NUISANCES**

§ 3.05.001. Reporting bites and scratches.

Every physician or other medical practitioner who treats a person or persons for any animal bite/scratch that occurred within the city shall within 12 hours report such treatment to the animal services officer giving the name, age, sex and precise location of the bitten/scratched person or persons and such other information as the officer or agency may require.

(Ordinance 071706-1, exh. A, sec. 5.01, adopted 7/17/2006)

§ 3.05.002. Reporting suspected rabies.

Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the animal services officer stating precisely where such animal may be found. If a known suspected rabid animal bites or scratches a domestic animal, such incident shall also be reported immediately.

(Ordinance 071706-1, exh. A, sec. 5.02, adopted 7/17/2006)

§ 3.05.003. Quarantine of dogs and cats; disposition of wild, exotic or dangerous animals.

- (a) Any owned dog or cat which has bitten or scratched 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 in the animal shelter (if, on the day of the bite or scratch, the city has made arrangements for impounding services by contract or by interlocal agreement) 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 confined in the animal shelter for a period of 96 hours and if unclaimed may be destroyed and the brain of such animal immediately submitted to a

qualified laboratory for rabies examination at the victim's expense. The owner of any dog or cat that has been reported to have inflicted a bite on any person shall on demand produce the dog or cat for impoundment to the appropriate authority, if any. Home quarantine may be allowed only in those incidents where permitted by state law and agreed to by the animal services officer. 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.

- (b) Any wild, exotic or dangerous animal that is considered high risk by state law or regulation and which has bitten or scratched a person shall be caught and humanely killed and the brain submitted for rabies examination. Those wild animals which are classified as low risk animals shall be handled as dictated by state law.

(Ordinance 071706-1, exh. A, sec. 5.03, adopted 7/17/2006)

§ 3.05.004. Providing care.

No owner shall fail to provide an animal in his/her care with sufficient good and wholesome food or water, adequate shelter and protection from weather, veterinary care when needed to prevent suffering, grooming when lack thereof would adversely affect the health of the animal, and with humane care and treatment.

(Ordinance 071706-1, exh. A, sec. 5.04, adopted 7/17/2006)

§ 3.05.005. Cruel treatment.

No person shall beat, cruelly ill treat, torment, mentally abuse, overload, overwork, or otherwise abuse an animal or cause, instigate or permit any dog fight, cock fight, bull fight or other combat between animals or between animals and humans.

(Ordinance 071706-1, exh. A, sec. 5.05, adopted 7/17/2006)

§ 3.05.006. Abandonment.

No person shall abandon an animal in his/her custody.

(Ordinance 071706-1, exh. A, sec. 5.06, adopted 7/17/2006)

§ 3.05.007. Giving away animal as prize or inducement.

No person shall give away, or offer to give away, to the general public any live animal as a prize or as an inducement to enter any contest, game or other competition or an inducement to enter a place of business; nor shall any person offer an animal to the general public as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(Ordinance 071706-1, exh. A, sec. 5.07, adopted 7/17/2006)

§ 3.05.008. Duties of person striking animal with motor vehicle.

Any person who, as the operator of a motor vehicle, strikes a domestic animal 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 the local humane society.

(Ordinance 071706-1, exh. A, sec. 5.08, adopted 7/17/2006)

§ 3.05.009. Poisonous substances and traps.

No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any domestic animal or person. This section is not intended to prohibit use of herbicides, insecticides or rodent control materials. No person shall utilize steel leg-hold traps within the city limits. This provision is not intended to include humane traps.

(Ordinance 071706-1, exh. A, sec. 5.09, adopted 7/17/2006)

§ 3.05.010. Theatrical exhibits.

All theatrical exhibits as defined herein shall, in addition to other requirements of this chapter, comply with the minimum standards of this section. Facilities shall be subject to inspection by an animal services officer upon his/her request during reasonable hours.

- (1) Animal quarters shall be of sufficient size to allow each animal to stand up, lie down and turn around in a natural position without touching the sides or top or any other animal or waste.
- (2) Each enclosure shall be maintained at a comfortable and healthy temperature level as well as have adequate ventilation.
- (3) No animal shall be made to perform by means of any prod, stick, electrical shock, chemical or physical force or by causing pain or discomfort. Any whip or riding crop must be used so as to not cause injury to the animal.
- (4) No animal shall be caused to fight, wrestle or be physically matched against any other animal or person.
- (5) No animal shall perform or be displayed in any dangerous situation presenting the danger of physical injury to the animal or person.
- (6) The animal services officer must be notified of and approve all displays or performances, including date, time and exact location, at least 48 hours in advance of a display or performance. Approval must be in writing. If the animal control officer denies approval, the applicant may appeal to the city council within 5 days of the denial. The application shall be placed on the next city council agenda.

(Ordinance 071706-1, exh. A, sec. 5.10, adopted 7/17/2006)

§ 3.05.011. Creating health hazard.

- (a) It shall be unlawful for any person to harbor or keep animals on his/her premises, or in or about premises under his/her control, and who allows such premises to become a hazard to the general health and welfare of the community, or who shall allow such premises to give off obnoxious or offensive odors due to the activity or presence of such animals.
- (b) It shall be unlawful for any person to allow his/her animal to eliminate/defecate on public property or the property of another without removing same.

(Ordinance 071706-1, exh. A, sec. 5.11, adopted 7/17/2006)

§ 3.05.012. Tampering with traps and equipment of animal services officer.

No person shall remove, alter, damage or otherwise tamper with a trap or equipment belonging to or set out by the animal services officer.

(Ordinance 071706-1, exh. A, sec. 5.12, adopted 7/17/2006)

§ 3.05.013. Authority to destroy injured and diseased animals.

The animal services officer, or authorized representative, is authorized to destroy any injured or diseased animal, whether such animal is on public or private property, if the animal's recovery from such injuries or disease is in serious doubt, and after a reasonable effort has been made to locate the owner of such animal.

(Ordinance 071706-1, exh. A, sec. 5.13, adopted 7/17/2006)

§ 3.05.014. Nuisance animals.

It shall be unlawful for any person to harbor or keep on his/her premises, or in or about any premises under his/her control, any animal which is a nuisance. A separate offense shall be deemed committed each day during or on which such violation occurs or continues.

(Ordinance 071706-1, exh. A, sec. 5.14, adopted 7/17/2006)

**ARTICLE 3.06
DANGEROUS DOGS**

§ 3.06.001. Nonregisterable dangerous dogs prohibited; impoundment or destruction.

No person shall own or harbor a nonregisterable dangerous dog within the city. Such an animal may be impounded as a public nuisance. If impoundment of such nonregisterable dangerous dog is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harbinger. If an attempt is made to impound a nonregisterable dangerous dog from the premises of the owner or harbinger and the impoundment cannot be made with safety, the owner or harbinger will be given 24 hours' notice that, if the animal is not surrendered to the animal services officer for impoundment within said 24-hour period, then the animal will be

destroyed wherever it is found. After this notice, the nonregisterable dangerous dog may be destroyed during an attempt to impound, if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this chapter may be verbal or in writing. A written notice left at the entrance to the premises where the nonregisterable dangerous dog is harbored will be considered valid notice under this chapter.

(Ordinance 071706-1, exh. A, sec. 6.01, adopted 7/17/2006)

§ 3.06.002. Determination of nonregisterable dangerous dog.

- (a) A dog is determined to be a nonregisterable dangerous dog if:
- (1) The animal services officer determines that the dog has committed an act or acts as set forth under the definition of “nonregisterable dangerous dog,” and such determination has been upheld or unchallenged; or
 - (2) The dog has been registered as, or finally determined or declared to be, a dangerous dog, either in Holland or in another city or county in Texas, and has made an unprovoked attack on another person outside the dog’s enclosure, or causes injury to such person or a person assisting or intervening on behalf of such person; or
 - (3) The owner of a dog determined to be a registerable dangerous dog under this chapter, or any previous or other ordinance of this city or any other city or state law, cannot or will not comply with the requirements set out in this chapter for the keeping of a registerable dangerous dog.
- (b) The animal services officer may find and determine a dog to be a nonregisterable dangerous dog if:
- (1) Upon receipt of an affidavit of complaint signed by one or more individuals (one of whom may be the animal control officer himself or herself), made under oath before an individual authorized by law to take sworn statements, setting forth an act or acts as set forth under the definition of “nonregisterable dangerous dog,” and setting forth, to the best of the affiant’s knowledge:
 - (A) The nature and the date of the act;
 - (B) The location of the event;
 - (C) The name and address of the owner of the animal in question; and
 - (D) The description of the animal in question.
 - (2) The animal services officer shall investigate any such complaint and may determine that an animal is nonregisterable under this chapter and/or state law.

(Ordinance 071706-1, exh. A, sec. 6.02, adopted 7/17/2006)

§ 3.06.003. Notification of determination of nonregisterable dangerous dog.

- (a) Within five working days of determining an animal nonregisterable, the animal services officer must notify, by certified mail, return receipt requested, the person owning the animal of its designation as a nonregisterable animal. In the event that certified mail, return receipt requested, cannot be delivered, the animal services officer may then give notice by ordinary mail to the last known address of owner. For the purposes of this section, written notice may be delivered by the animal services officer in person to the owner/harbinger of the dog in question.
- (b) If the animal is determined to be nonregisterable under this chapter, the owner may appeal to the municipal court within 30 days of notification. Failure to appeal the determination of nonregisterable dangerous dog shall result in the animal services officer's determination as becoming final.

(Ordinance 071706-1, exh. A, sec. 6.03, adopted 7/17/2006)

§ 3.06.004. Status of nonregisterable dangerous dog pending appeal.

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

(Ordinance 071706-1, exh. A, sec. 6.04, adopted 7/17/2006)

§ 3.06.005. Defense to determination of nonregisterable dangerous dog.

It is a defense to the determination that a dog is a nonregisterable dangerous dog and to the prosecution of the owner of that dog:

- (1) If the threat, injury or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner of the animal;
- (2) If the threat, injury or damage was sustained by a person who was teasing, tormenting, abusing or assaulting the animal or has, in the past, been reported to have teased, tormented, abused or assaulted the animal;
- (3) If the threat, injury or damage was sustained by a person who was committing or attempting to commit a crime;
- (4) If the dog was protecting or defending a person while in that person's control from an unjustified attack or assault; or

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

(Ordinance 071706-1, exh. A, sec. 6.05, adopted 7/17/2006)

§ 3.06.006. Disposition of nonregisterable dangerous dog.

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

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

(Ordinance 071706-1, exh. A, sec. 6.06, adopted 7/17/2006)

§ 3.06.007. Definition of registerable dangerous dog.

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

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

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

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

(Ordinance 071706-1, exh. A, sec. 6.07, adopted 7/17/2006)

§ 3.06.008. Determination of registerable dangerous dog.

(a) A dog is determined to be a registerable dangerous dog if it meets the requirements set out in section 3.06.007, and:

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

(2) The owner is notified by the animal services officer that the dog in question is a registerable dangerous dog.

(b) The animal services officer may find and determine a dog to be a registerable dangerous dog if:

(1) Upon receipt of an affidavit of complaint signed by one or more individuals (one of whom may be the animal control officer himself or herself), made under oath

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before an individual authorized by law to take sworn statements, setting forth an act described in section 3.06.007 of this chapter, and setting forth, to the best of the affiant's knowledge:

- (A) The nature and the date of the act described in section 3.06.007;
 - (B) The location of the event;
 - (C) The name and address of the owner of the animal in question; and
 - (D) The description of the animal in question; or
- (2) The animal services officer has been notified by another agency that the dog has been determined to be dangerous under the state law.

(Ordinance 071706-1, exh. A, sec. 6.08, adopted 7/17/2006)

§ 3.06.009. Notification of determination of registered dangerous dog.

- (a) Within five working days of determining a dog to be a registered dangerous dog, if written notification cannot be given personally to the owner of the dog, the animal services officer will notify, by certified mail, return receipt requested, the person owning the animal of its designation as a registerable dangerous dog. In the event that certified mail, return receipt requested, cannot be delivered, the animal services officer may then give notice by ordinary mail.
- (b) If the dog is determined to be registerable under this chapter, the notice shall inform the owner of the dog that he/she may appeal the determination to municipal court no later than 30 days after the date the owner is notified of the determination. Failure to appeal the determination of registerable dangerous dog within the 30-day period shall result in the animal services officer's determination becoming final.
- (c) Upon determination by the animal services officer that the dog is dangerous, the owners shall be required to secure the animal immediately within an enclosure that meets the requirements of this chapter. If the owner fails to do so, the animal services officer shall impound the dog until such enclosure is provided.
- (d) The animal services officer shall immediately notify, in writing, adjacent and contiguous property owners of such determination.

(Ordinance 071706-1, exh. A, sec. 6.09, adopted 7/17/2006)

§ 3.06.010. Status of registerable dangerous dog on appeal.

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

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the dog cannot be taken into custody by the animal services officer, it may be taken into custody under a search warrant for contraband issued by the municipal judge.

(Ordinance 071706-1, exh. A, sec. 6.10, adopted 7/17/2006)

§ 3.06.011. Defense to determination of registerable dangerous dog.

Section 3.06.005 shall serve as a defense to the determination of a dog as a registerable dangerous dog and to the prosecution of the owner of that dog.

(Ordinance 071706-1, exh. A, sec. 6.11, adopted 7/17/2006)

§ 3.06.012. Disposition of registerable dangerous dog.

- (a) If the municipal court upholds the determination by the animal services officer, the owner shall, no later than ten days after the hearing, comply with the provisions of this chapter for the keeping of a registered dangerous dog in the city and the dog shall be returned to the owner provided all costs involved in the impoundment, holding and medical treatment of the dog are paid.
- (b) In the event the municipal court reverses that determination, the dog in question shall be returned to or released to its owner provided the owner has paid all veterinary medical costs administered to such dog while in the custody of the animal services officer.
- (c) If the animal services officer has information or belief, or has determined that a court of competent jurisdiction has ever made or upheld a determination or declaration that a dog is dangerous, or if the animal services officer has determined that a declaration or determination of dangerous dog became final for failure to appeal or any other reason, under previous or other ordinances of this city or other cities or state law, the animal services officer shall notify the person owning or keeping such dog in writing that the owner shall no later than ten days after the date of the notice comply with the provisions of this chapter for the keeping of a registered dangerous dog in the city.

(Ordinance 071706-1, exh. A, sec. 6.12, adopted 7/17/2006)

§ 3.06.013. Requirements for registration and possession of registered dangerous dog.

The owner must register the dog with the animal services officer, and pay the fees as required by state law. The registration shall not be transferable and shall expire one year from date of issuance. The animal services officer shall provide to the owner of the registered dangerous dog a tag which must be placed on the dog's collar and worn at all times.

- (1) The owner must comply with the following to register the dog:
 - (A) Present proof of liability insurance or financial responsibility in the amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog;
 - (B) Present proof of current rabies vaccination of the registerable dangerous dog;

- (C) Present proof that the dog has been altered so as to prevent reproduction;
 - (D) Provide a proper enclosure as defined in this chapter and that proper enclosure must be inspected and approved by the animal services officer;
 - (E) Post a sign on his/her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public street or highway. In addition, the owner shall conspicuously display a sign with a symbol warning, understandable by small children, of the presence of a dangerous dog; and
 - (F) Further identification may be required and designated by the order of the city.
- (2) When the registered dangerous dog is taken outside the approved proper enclosure, the animal must be securely muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting a person or other animal, and the dog must be restrained by a substantial chain or cable leash having a minimum tensile strength of 1,000 pounds and not to exceed six feet in length.
 - (3) Prior to selling or moving the registered dangerous dog either inside or outside the city limits, the owner must notify the animal services officer of his/her intentions. In the event the dog is moved permanently outside the city limits the owner must comply with the state law in notifying the animal control authority in control of the area into which the dog has been moved.
 - (4) Anyone bringing a dog into the city limits that has been declared dangerous by another animal control authority must notify the animal services officer of the new address where the dog will be kept and upon presentation of the dog's prior registration tag that has not expired shall pay a fee set by the city council, and the animal services officer shall issue a new tag to be placed on the dog's collar. This owner must also comply with all requirements set out in this chapter.

(Ordinance 071706-1, exh. A, sec. 6.13, adopted 7/17/2006)

§ 3.06.014. Attack by registered dangerous dog.

The owner of a dangerous dog shall notify the animal services officer of any attacks the dog makes on people or animals.

(Ordinance 071706-1, exh. A, sec. 6.14, adopted 7/17/2006)

§ 3.06.015. Violations; civil penalty.

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

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enclosure whether or not the dog was on a leash and securely muzzled or whether or not the dog escaped without fault of the owner.

- (c) It shall be a violation of article if the person is the owner of a registered dangerous dog and that dog attacks a person who gains access to the proper enclosure due to negligence on the part of the owner or the owner's agent. This negligence shall include a failure to comply with the notification of ownership of dangerous dog through posting of warning signs in accordance with section 3.06.013.
- (d) In addition to criminal prosecution, a person who commits an offense under this article is liable for a civil penalty not to exceed \$10,000.00. The city attorney may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the city.

(Ordinance 071706-1, exh. A, sec. 6.15, adopted 7/17/2006)

§ 3.06.016. Defense to prosecution.

It is a defense to prosecution under section 3.06.015 that the person is:

- (1) A veterinarian, peace officer, or employee of the city, and the harboring of the dog was in the performance of his/her duties;
- (2) An employee of the institutional division of the state department of criminal justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; or
- (3) A dog trainer or an employee of a guard dog company, while in the performance of his/her duties, under the Private Security Act, Texas Occupations Code chapter 1702, as amended.

(Ordinance 071706-1, exh. A, sec. 6.16, adopted 7/17/2006)

§ 3.06.017. Appeal of decision of municipal court.

Any appeal of the decision or order of the municipal court of the city shall be made within 20 days in the same manner as appeal from civil cases originating in the justice of the peace courts of this state. The municipal court shall order the appellant to post a supersedeas bond payable to the city in an amount not less than \$10,000.00. The form of the bond shall be as prescribed in the laws pertaining to civil appeals originating in the justice of the peace courts in this state. The appellant shall be responsible for the cost of appeal.

(Ordinance 071706-1, exh. A, sec. 6.17, adopted 7/17/2006)

**ARTICLE 3.07
GUARD DOGS****§ 3.07.001. Permit; warning signs; inspection of premises.**

- (a) All dogs which are trained by a certified professional and kept solely for the protection of persons and property, residential, commercial or personal, shall obtain a permit from the animal services officer. The annual fee for this permit shall be set by the city council. The area or premises in which such dog is confined shall be conspicuously posted with warning signs bearing letters not less than two inches high, stating “Guard Dog On Premises.”
- (b) The area of premises shall be subject to inspection by the animal services officer to determine that the animal in question is maintained and secured at all times in such a manner so as to prevent its coming in contact with the public.
- (c) Dogs used by federal, state, county, or municipal law enforcement agencies are exempt from this section.

(Ordinance 071706-1, exh. A, sec. 8.01, adopted 7/17/2006)

Chapter 4
BUILDING REGULATIONS

ARTICLE 4.01
GENERAL PROVISIONS (RESERVED)

ARTICLE 4.02
CONSTRUCTION CODES AND STANDARDS

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Generally

§ 4.02.001. through § 4.02.030.
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Division 2
Electrical Code

- § 4.02.031. Adopted.
- § 4.02.032. Fees.
- § 4.02.033. Prior amendments preserved.
- § 4.02.034. Enforcement; penalty.

ARTICLE 4.03
SUBSTANDARD BUILDINGS AND PROPERTY MAINTENANCE

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- § 4.03.002. Local Government Code chapter 214 adopted.
- § 4.03.003. Penalty.
- § 4.03.004. Enforcement.
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Substandard Buildings

- § 4.03.031. Definitions.
- § 4.03.032. Declaration of nuisance.
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- § 4.03.034. Notice of dangerous building or dangerous condition of property.
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- § 4.03.036. Sufficiency of notice.
- § 4.03.037. Duties of board of adjustments and appeals.
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- § 4.03.039. City council action upon failure to comply with order.
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FLOOD DAMAGE PREVENTION

- § 4.04.001. Statutory authorization, findings of fact, purpose and methods.
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ARTICLE 4.05
MOBILE HOMES

- § 4.05.001. Liability.

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| § 4.02.001 | HOLLAND CODE | § 4.02.033 |
| § 4.05.002. Penalty. | | § 4.05.007. Conditions of permit. |
| § 4.05.003. Specific use permit required. | | § 4.05.008. Utility connections. |
| § 4.05.004. Definitions. | | § 4.05.009. Expiration of permit. |
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| § 4.05.006. Granting of permit. | | |

**ARTICLE 4.01
GENERAL PROVISIONS (RESERVED)**

**ARTICLE 4.02
CONSTRUCTION CODES AND STANDARDS**

Division 1
Generally

§ 4.02.001. through § 4.02.030. (Reserved)

Division 2
Electrical Code

§ 4.02.031. Adopted.

A certain document, three (3) copies of which are on file in the office of the city, being marked and designated as the National Electrical Code, 2020 edition, including appendix A through D, as published by the National Fire Protection Association, is hereby adopted as the building code of the city for regulating and governing the installation of electrical conductors, equipment, and raceways; signaling and communications conductors, equipment, and raceways; and optical fiber cables and raceways in commercial, residential, and industrial occupancies as therein provided; and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said electrical code on file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in this division.

(Ordinance 06-21-2021, sec. 1, adopted 6/21/2021)

§ 4.02.032. Fees.

The city shall charge and collect such rates and fees as adopted by the city council.

(Ordinance 06-21-2021, sec. 2, adopted 6/21/2021)

§ 4.02.033. Prior amendments preserved.

All ordinances heretofore adopted by the city council amending an earlier edition or version of this code shall be and remain in full force and effect. Such prior amendatory ordinances shall, to the fullest extent possible, be read together with and reconciled with the above applicable code and interpreted in a manner to give effect to both. If any such prior

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amendatory ordinance cannot be reconciled with the applicable and above-listed code, then, in that event, the amendatory ordinance shall control and govern to the extent of such conflict.

(Ordinance 06-21-2021, sec. 3, adopted 6/21/2021)

§ 4.02.034. Enforcement; penalty.

- (a) Any person, firm or individual who shall violate any of the provisions of this division shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one dollar (\$1.00) or more than two thousand dollars (\$2,000.00) in accordance with Texas Local Government Code section 54.001(b). Each and every day the violation continues shall constitute a separate and distinct offense.
- (b) No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the city for or with respect to any lot, tract or parcel of land within the city limits, after the effective date of this division, except in compliance with all then-applicable requirements of this division and the above code.
- (c) This division and any code or provision adopted by this division may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this division, with respect to any land, building or development within the city, [is punishable][??] by fine and penalties as provided herein.

(Ordinance 06-21-2021, sec. 5, adopted 6/21/2021)

**ARTICLE 4.03
SUBSTANDARD BUILDINGS AND PROPERTY MAINTENANCE**

Division 1
Generally

§ 4.03.001. International Property Maintenance Code adopted.

- (a) That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the International Property Maintenance Code, 2012 edition, including all appendix chapters, published by the International Code Council, Inc., is hereby adopted as the building code of the city establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures, by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in connection with the city's dangerous building regulations and chapter 214, Texas Local Government Code; and each and all of the regulations, provisions, conditions and terms of such International Property Maintenance Code, 2012 edition, published by the International

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Code Council, Inc., on file in the office of the city secretary are hereby referred to, adopted and made a part of this section as if fully set out in this section.

- (b) The 2012 International Property Maintenance Code is further amended as follows:
- (1) Each reference to “board of adjustments and appeals” is hereby amended to provide that the composition of the board of adjustments and appeals of the city shall be the city council.
 - (2) Each reference to the qualification requirements for members of the “board of adjustments and appeals” is hereby repealed.
 - (3) Section 111.1 is amended to delete any reference or requirement that requires a written application for appeal to be filed within 20 days after the decision of a code official.
 - (4) Section 111.3 is deleted.
- (c) The following numbered section is deleted and replaced in full with the text indicated:

Section 112.4 Failure to comply. Any person who violates a provision of this code, or fails to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor, and subject to a fine of between \$1.00 and \$2,000.00. Each day a violation occurs constitutes a separate offense.

(Ordinance 071612, sec. 2, adopted 7/16/2012)

§ 4.03.002. Local Government Code chapter 214 adopted.

Chapter 214, Texas Local Government Code, is hereby adopted by the city and made a part of this article. In the event of any conflict or inconsistency between the terms and provisions of this article and chapter 214, the terms and provisions of chapter 214 shall govern and control.

(Ordinance 071612, sec. 3, adopted 7/16/2012)

§ 4.03.003. Penalty.

Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein. To the extent of any conflict between this section and a penalty provision in the codes adopted herein, such penalty provision shall be amended and this section shall control.

(Ordinance 071612, sec. 6, adopted 7/16/2012)

§ 4.03.004. Enforcement.

- (a) No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the city for or with respect to any lot, tract or parcel of

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land within the city limits, after the effective date of this article, except in compliance with all then-applicable requirements of this article and the above codes.

- (b) Whenever any building work is being done contrary to the provisions of this article, or another controlling ordinance or statute governing the building, the building official or code enforcement officer designated by the city manager may order the work stopped by notice verbally or in writing served on any persons engaged in doing or causing such work to be done and the city shall post a stop work order on the property adjacent to the posted building permit, and any such persons shall forthwith stop such work until authorized by the building official or code enforcement officer to proceed with the work. If no permit has been issued, all work shall stop until a permit has been properly issued and all errors corrected to the satisfaction of the building official or code enforcement officer. The building official or code enforcement officer may also issue a work correction order, which shall be served upon any persons who are working on a certain aspect of the construction project. The work on other aspects of the construction not in violation of the city's ordinances may proceed, but work shall cease as to that aspect in violation of the city's ordinances.
- (c) This article and any code or provision adopted by this article may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this article, with respect to any land, building or development within the city, by fine and penalties as provided herein.

(Ordinance 071612, sec. 7, adopted 7/16/2012)

§ 4.03.005. through § 4.03.030. (Reserved)

Division 2

Substandard Buildings

§ 4.03.031. Definitions.

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

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

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

County means the County of Bell, Texas.

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

- (1) In such a state or condition of repair or disrepair that all or any of the following conditions exist:
- (A) Walls or other vertical structural members list, lean, or buckle;

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- (B) Damage or deterioration exists to the extent the building cannot be used or occupied without risk of injury, or to the extent the building poses a danger to persons on the property or adjacent property;
 - (C) Loads on floors or roofs are improperly distributed or the floors or roofs are of insufficient strength to be reasonably safe for the purposes used;
 - (D) Damage by fire, wind, or other cause has rendered the building or structure dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city;
 - (E) The building or structure is so dilapidated, substandard, decayed, unsafe, unsanitary or otherwise lacking in the amenities essential to decent living or use that the same is unfit for human habitation or occupancy, or is likely to cause sickness, disease or injury or otherwise to constitute a detriment to the health, morals, safety or general welfare of those persons assembled, working, or living therein or is a hazard to the public health, safety and welfare;
 - (F) Light, air, and sanitation facilities are inadequate to protect the health, morals, safety, or general welfare of persons who assemble, work, or live therein;
 - (G) Stairways, fire escapes, and other facilities of egress in case of fire or panic are inadequate;
 - (H) Parts or appendages of the building or structure are so attached that they are likely to fall and injure persons or property;
 - (I) The floors, exterior walls, or roof fail to protect occupants of the building or structure from weather, injury, and the danger of collapse due to the presence of holes, cracks, and loose, rotten, warped, or protruding boards or other similar damage in floors, exterior walls or the roof;
 - (J) Conditions of the structure or building constitute a material violation of provisions of the city's building codes, plumbing code, fire prevention code, or electrical code (the "codes"). For the purposes of this section, a "material" violation is a violation of any provision or provision of the codes that creates a significant risk of personal injury, death, or property damage;
- (2) Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare of the city's residents;
 - (3) Regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
 - (4) Boarded up, fenced or otherwise secured in any manner if:
 - (A) The building constitutes a danger to the public even though secured from entry; or
 - (B) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building to the extent it could be entered or used by vagrants

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or other uninvited persons as a place of harborage or could be entered or used by children;

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

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

Structure means that which is constructed.

(Ordinance 071612, sec. 4(1.01), adopted 7/16/2012)

§ 4.03.032. Declaration of nuisance.

- (a) It shall be unlawful for any person to maintain or permit the existence of any dangerous building in the city, and it shall be unlawful for any person to permit same to remain in such condition.
- (b) All dangerous buildings, unsafe buildings, and substandard buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures provided in this division.
- (c) The code enforcement authority shall enforce the provisions of this division.

(Ordinance 071612, sec. 4(2.01), adopted 7/16/2012)

§ 4.03.033. Inspections; duties of code enforcement authority.

The code enforcement authority shall inspect, or cause to be inspected, every building, or portion thereof, reported to be dangerous. If such building, or any portion thereof, is determined to be dangerous, the code enforcement authority shall give the responsible parties notice in accordance with the requirements set forth in section 4.03.036 of this division. The code enforcement authority shall also:

- (1) Inspect or cause to be inspected, when necessary, any building or structure within the incorporated limits of the city, including public buildings, schools, halls, churches, theaters, hotels, tenements, or apartments, multi-family residences, single-family residences, garages, warehouses, and other commercial and industrial structures of any nature whatsoever, for the purpose of determining whether any conditions exist which render such places a “dangerous building” as defined in this division.
- (2) Inspect any building, wall or structure about which complaints have been filed by any person to the effect that a building, wall or structure is or may be existing in violation of this division.
- (3) Report to the board of adjustments and appeals any noncompliance with the minimum standards set forth in this division. The city code enforcement authority shall obtain from the secretary of the board of adjustments and appeals a hearing date for a public hearing by the board of adjustments and appeals on any building believed to be a dangerous building and shall provide the secretary of the board of adjustments and

appeals with copies of the written notice to persons with interests in the property as required under this division.

- (4) Appear at all hearings conducted by the board of adjustments and appeals and testify as to the conditions of dangerous buildings within the city.
- (5) Place a notice on all dangerous buildings reading as follows: “This building has been found to be a dangerous building by the City of Holland Code Enforcement Authority. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given to the owner(s), occupant(s) and person(s) with interests in the property as shown by the records of the City Secretary and the Tax Appraisal District. It is unlawful to remove this notice until such notice is complied with.”
- (6) Request the mayor, city administrator, or city manager, as applicable, to have the building inspector, or an appropriate engineer or building inspector, provide additional inspections and reports and act as an expert witness at hearings for buildings that appear marginally dangerous.
- (7) Make a diligent effort to determine the identity and address of each owner, lienholder, or mortgagee. The code enforcement authority satisfies the requirements of this subsection to make a diligent effort, to use best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the code enforcement authority searches the following records:
 - (A) County real property records of the county in which the building is located;
 - (B) Appraisal district records of the appraisal district in which the building is located;
 - (C) Records of the secretary of state;
 - (D) Assumed name records of the county in which the building is located;
 - (E) Tax records of the city; and
 - (F) Utility records of the city.
- (8) Perform the other requirements with respect to notification of public hearings as are set forth more specifically in this division.

(Ordinance 071612, sec. 4(2.02), adopted 7/16/2012)

§ 4.03.034. Notice of dangerous building or dangerous condition of property.

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

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- (1) The address or legal description of the property where the building or structure deemed unsafe is located;
 - (2) A statement of the specific conditions, violations, or defects which make the building or structure a dangerous building;
 - (3) Notice of the date and time of a public hearing before the board of adjustments and appeals to determine whether the building complies with the standards set out in this division; and
 - (4) A statement that the owner, lienholder, mortgagee, or persons with a legal interest in the building will be required to submit at the hearing proof of the scope of any work that may be required to comply with this division and the amount of time it will take to reasonably perform the work.
- (b) The notice required under this section must be either personally delivered or mailed on or before the 10th day before the date of the hearing unless the code enforcement authority determines that the property, building, or structure is in immediate need to be secured, repaired, or abated and the property, building, or structure presents an immediate threat to the health, safety, and welfare of the public. For purposes of providing the minimum notice under this subsection, the notice of dangerous building or dangerous condition of property shall be deemed served upon the responsible parties on the date the notice is deposited with the U.S. Postal Service.
- (c) Such notice shall be served upon the responsible parties both by certified mail and regular U.S. mail as required in this section.

(Ordinance 071612, sec. 4(2.03), adopted 7/16/2012)

§ 4.03.035. Securing dangerous building.

- (a) Should the code enforcement authority determine that any building or structure within the incorporated limits of the city is a dangerous building, or is unoccupied and unsecured, or is occupied only by persons who do not have a right of possession of the building, he/she shall cause the building to be secured.
- (b) Before the 11th day after the date the building is secured, the municipality shall give notice to the owner by:
 - (1) Personally serving the owner with written notice; or
 - (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address; or
 - (3) Publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owner's post office address is unknown; or
 - (4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.
- (c) The notice must contain:

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- (1) Identification, which is not required to be a legal description, of the building and the property on which it is located;
 - (2) A description of the violation of the city standards that is present at the building;
 - (3) A statement that the city will secure or has secured, as the case may be, the building; and
 - (4) An explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building.
- (d) The board of adjustments and appeals shall conduct a hearing at which any of the responsible parties may testify and present witnesses and written information about any matter relating to the city's securing of the building, if, within 30 days after the date the code enforcement authority secures or causes to be secured the building, a responsible party files a written request for the hearing. The board of adjustments and appeals shall conduct the hearing within 20 days after the date the request is filed with the city.
- (e) The city shall impose a lien against the land on which the building stands, unless it is a homestead, to secure the payment of the cost of securing the building. Promptly after the imposition of the lien, the city shall file for record, in recordable form in the official public records of the county, a written notice of the imposition of the lien. The notice shall contain a legal description of the land.
- (Ordinance 071612, sec. 4(2.04), adopted 7/16/2012)

§ 4.03.036. Sufficiency of notice.

- (a) A notice of dangerous building or dangerous condition of property as required under this division shall include notice of the date and time of a public hearing and shall be deemed properly served upon the responsible parties if a copy thereof is:
- (1) Served upon him/her personally; or
 - (2) Sent by registered or certified mail, return receipt requested, and regular U.S. mail to the last known address of such person as shown on the records of the city; or
 - (3) Posted in a conspicuous place in or about the building affected by the notice.
- (b) When the city mails a notice in accordance with this section to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.
- (c) The city shall file notice of the hearing in the public records of real property of Bell County.

(Ordinance 071612, sec. 4(2.05), adopted 7/16/2012)

§ 4.03.037. Duties of board of adjustments and appeals.

The board of adjustments and appeals shall:

- (1) Schedule and conduct a hearing and hear testimony from the code enforcement authority, the owner and other persons having an interest in the dangerous building, and any person desiring to present factual evidence relevant to the dangerous building. Such testimony shall relate to the determination of the question of whether the building or structure in question is a dangerous building and the scope of any work that may be required to comply with this division and the amount of time it will take to reasonably perform the work. The owner or a person having an interest in the dangerous building shall have the burden of proof to demonstrate the scope of any work that may be required to comply with this division and the time it will take to reasonably perform the work.
- (2) Upon conclusion of the hearing, the board of adjustments and appeals shall determine by majority vote whether the building or structure in question is a dangerous building. Upon a determination that the building or structure in question constitutes a dangerous building, the board of adjustments and appeals shall issue a written order:
 - (A) Containing an identification of the building and the property on which it is located;
 - (B) Making written findings of the minimum standards violations that are present at the building;
 - (C) Requiring the owner and persons having an interest in the building to secure, repair, vacate, and/or demolish the building within thirty (30) days from the issuance of such order, unless the owner or a person with an interest in the building establishes at the hearing that the work cannot reasonably be performed within thirty (30) days, in which instance the board of adjustments and appeals shall specify a reasonable time for the completion of the work; and further provided that the board of adjustments and appeals may require the owner and occupants to vacate the building within a shorter period of time if the building has fallen, is at risk of immediate collapse, or is in such a condition that life is endangered by further occupation of the building; and
 - (D) Containing a statement that the city will vacate, secure, remove or demolish the dangerous building and relocate the occupants of the building if the ordered action is not taken within the time specified by the board of adjustments and appeals and it is found and determined by the board of adjustments and appeals in its order that there is an immediate clear and present danger to other property or the public.
- (3) If repair or demolition is ordered, the board of adjustments and appeals shall send a copy of the order by certified mail to the owner and all persons having an interest in the property, including all identifiable mortgagees and lienholders, within a reasonable period of time after the hearing. Within 10 days after the date that the order is issued, the city shall:
 - (A) File a copy of the order in the office of the municipal secretary or clerk; and

- (B) Publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:
- (i) The street address or legal description of the property;
 - (ii) The date of the hearing;
 - (iii) A brief statement indicating the results of the order (may be a copy of the order); and
 - (iv) If not provided in the notice, instructions stating where a complete copy of the order may be obtained.
- (4) If repair or demolition is ordered and notice of public hearing was not filed in the official public records of real property of the county, the city may file and record a copy of the order in such records of the county.
- (5) If the board of adjustments and appeals allows the owner or a person with an interest in the dangerous building more than thirty (30) days to repair, remove, or demolish the building, the board of adjustments and appeals in its written order shall establish specific time schedules for the commencement and performance of the work and shall require the owner or person to secure the property in a reasonable manner from unauthorized entry while the work is being performed. The securing of the property shall be in a manner found to be acceptable by the city code enforcement authority. Any required permits or approvals shall be obtained prior to commencing the repair, removal, or demolition of the building.
- (6) The board of adjustments and appeals may not allow the owner or person with an interest in the dangerous building more than ninety (90) days to repair, remove, or demolish the building or fully perform all work required to comply with the written order unless the owner or person:
- (A) Submits a detailed plan and time schedule for the work at the hearing; and
 - (B) Establishes at the hearing that the work cannot reasonably be completed within ninety (90) days because of the scope and complexity of the work.
- (7) If the board of adjustments and appeals allows the owner or person with an interest in the dangerous building more than ninety (90) days to complete any part of the work required to repair, remove, or demolish the building, the board of adjustments and appeals shall require the owner or person to regularly submit progress reports to board of adjustments and appeals to demonstrate that the owner or person has complied with the time schedules established for commencement and performance of the work. The written order may require that the owner or person with an interest in the building appear before the city code enforcement authority to demonstrate compliance with the time schedules.
- (8) In the event the owner or a person with an interest in a dangerous building fails to comply with the order within the time specified therein, the city may cause any occupants of the dangerous building to be relocated, and may cause the dangerous building to be secured, removed, or demolished at the city's expense. The city may assess the expenses on, and the city has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the dangerous building was

located. The lien is extinguished if the property owner or a person having an interest in the building reimburses the city for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice of lien must contain:

- (A) The name and address of the owner of the dangerous building if that information can be determined by a diligent effort;
 - (B) A legal description of the real property on which the building was located;
 - (C) The amount of expenses incurred by the city; and
 - (D) The balance due.
- (9) Such lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property.
- (10) In addition to the authority set forth in subsection (7) above, after the expiration of the time allotted in the order for the repair, removal, or demolition of a dangerous building, the city may repair the building at its expense and assess the expenses on the land on which the building stands or to which it is attached. The repairs contemplated by this section may only be accomplished to the extent necessary to bring the building into compliance with the minimum standards established by city ordinance, and to the extent such repairs do not exceed minimum housing standards. This section [subsection][??] shall be applicable only to residential buildings with ten (10) or fewer dwelling units. The city shall follow the procedures set forth in subsection (7) above for filing a lien on the property on which the building is located.

(Ordinance 071612, sec. 4(3.01), adopted 7/16/2012)

§ 4.03.038. Appeal of order of board of adjustments and appeals.

- (a) Any responsible party affected by a board of adjustments and appeals order who desires to appeal the decision of the board of adjustments and appeals, or the findings set forth in the board of adjustments and appeals order, must appeal the order of the board of adjustments and appeals to the city council in accordance with the following procedures:
 - (1) The responsible party shall file a written notice of appeal with the board of appeals and the code enforcement authority within 30 calendar days of receiving the board of adjustments and appeals order.
 - (2) The notice of appeal must set forth and describe the factual and legal grounds why the board of adjustment and appeals decision is in error, wrong, or incorrect.
 - (3) The responsible party must request a public hearing before the city council.
 - (4) The responsible party has the burden of proof of demonstrating at a public hearing before city council that the board of adjustment and appeals order is in error, wrong, or incorrect.

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- (5) The city council shall only consider evidence that was available to the board of adjustments and appeals at the time of the hearing before the board of adjustments and appeals.
- (6) The board of adjustments and appeals order shall be deemed final and non-appealable if a responsible party fails to timely submit an appeal in accordance with this section.
- (b) In conducting its review of a board of adjustments and appeals order, the city council shall by ordinance either affirm the order or reverse the order.
- (c) If the city council affirms the board of adjustments and appeals order, the findings and decision set forth in the board of adjustments and appeals order shall be deemed final and the city council's ordinance shall include the following:
 - (1) Findings of fact as to the specific conditions which make the building or structure a dangerous building;
 - (2) If the city council orders the demolition of the dangerous building, the ordinance ordering the demolition of the dangerous building must include:
 - (A) A finding that there is an immediate clear and present danger to other property or the public; and
 - (B) The ordinance must specify that the demolition of the dangerous building cannot occur earlier than 35 calendar days from the date of the city council's order affirming the board of adjustments and appeals.
- (d) If the city council reverses the board of adjustment and appeals order, the city council shall set forth in factual findings in the ordinance the grounds and reasons for the reversal.
- (e) The board of adjustments and appeals order shall be deemed final:
 - (1) In the absence of a timely filed appeal in accordance with the appeal procedures established in this section; or
 - (2) Due to a failure of an appealing party to comply with the appeal procedures set forth in this section.

(Ordinance 071612, sec. 4(4.01), adopted 7/16/2012)

§ 4.03.039. City council action upon failure to comply with order.

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

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

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- (2) By ordinance, assess a civil penalty of up to \$1,000.00 per day against the owners and persons having an interest in the property; and
- (3) Authorize and take such other action as contemplated by this division, or Local Government Code chapter 214, as is necessary or advisable in the judgment of the city council to protect the public health, safety or welfare.

(Ordinance 071612, sec. 4(4.02), adopted 7/16/2012)

§ 4.03.040. Judicial review.

- (a) Any owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an order of a city council issued under this division and Local Government Code section 214.001 may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the municipality is personally delivered to them, mailed to them by first class mail with certified return receipt requested, or delivered to them by the United States Postal Service using signature confirmation service, or such decision shall become final as to each of them upon the expiration of each such 30 calendar day period.
- (b) On the filing of the petition, the court may issue a writ of certiorari directed to the municipality to review the order of the municipality and shall prescribe in the writ the time within which a return on the writ must be made, which must be longer than 10 days, and served on the relator or the relator's attorney.
- (c) The city may not be required to return the original papers acted on by it, but it is sufficient for the municipality to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ.
- (d) The return must concisely set forth other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (e) The issuance of the writ does not stay proceedings on the decision appealed from.
- (f) Appeal in the district court shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.
- (g) Costs may not be allowed against the city.
- (h) If the decision of the municipality is affirmed or not substantially reversed but only modified, the district court shall allow to the city all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners, lienholders, or mortgagees as well as all persons subject to the proceedings before the city.

(Ordinance 071612, sec. 4(4.03), adopted 7/16/2012)

§ 4.03.041. Assessment of expenses and penalties.

- (a) If the time allotted for the repair, removal or demolition of a building under this division has expired, then the city council may, in addition to the authority granted under chapter 214, Texas Local Government Code, and the foregoing sections of this division:
- (1) Order the repair of the building at the city's expense and assess the expenses on the land on which the building stands or to which it is attached; or
 - (2) Assess a civil penalty of up to \$1,000.00 per day against the responsible party for failure to repair, remove, or demolish the building.
 - (3) Authorize the city code enforcement authority to invite at least two (2) or more building contractors to make estimates pertaining to the needed repair, removal or demolition of a building. The code enforcement authority shall cause to be made an assessment of expenses, and may also recommend civil penalties, based on such estimates. The code enforcement authority shall endeavor to minimize the expenses of any building repairs, removal or demolitions order pursuant to this division.
- (b) The city shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the Texas Constitution, to secure the payment of the repair, removal, or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the city shall file for record, in recordable form in the office of the Burleson County [Bell County][??] clerk, a written notice of the imposition of the lien. The notice shall contain a legal description of the land.
- (c) The city's lien to secure the payment of a civil penalty or the costs of repairs, removal, or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the city's lien attaches if the mortgage lien was filed for record in the office of the Burleson County [Bell County][??] clerk before the date the civil penalty is assessed or the repair, removal, or demolition is begun by the city. The city's lien is superior to all other previously recorded judgment liens.
- (d) Any civil penalty or other assessment imposed under this section accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full. The city may further file with the district clerk a copy of an ordinance assessing a civil penalty pursuant to this division.
- (e) In any judicial proceeding regarding enforcement of the city's rights under this section, the prevailing party is entitled to recover reasonable attorney's fees as otherwise provided by statute.
- (f) A lien acquired under this section by the city for repair expenses may not be foreclosed if the property on which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.

(Ordinance 071612, sec. 4(5.01), adopted 7/16/2012)

§ 4.03.042. Violations.

- (a) The owner of any dangerous building who shall fail to comply with any notice or order to repair, secure, vacate or demolish said building or structure, such notice or order given by the authority of the board of adjustments and appeals, or the city council, shall be guilty of a misdemeanor.
- (b) An occupant or lessee in possession of any dangerous building who fails to comply with any notice or order to vacate such building and fails to repair such building in accordance with an order given by the board of adjustments and appeals shall be guilty of a misdemeanor.
- (c) Any person removing the notice of a secured building as provided for in section 4.03.035(b)(4), or removing the posted notice described under in section 4.03.036, shall be guilty of a misdemeanor.
- (d) The violation of any provision of this division shall be unlawful and a misdemeanor offense punishable by a fine of between \$1.00 and \$2,000.00. Each day a violation of this division continues shall constitute a separate offense.

(Ordinance 071612, sec. 4(5.02), adopted 7/16/2012)

**ARTICLE 4.04
FLOOD DAMAGE PREVENTION**

§ 4.04.001. Statutory authorization, findings of fact, purpose and methods.

- (a) Statutory authorization. The legislature of the state has, in ==section 8380-13 Vernon's Texas Civil Statutes [Water Code section 16.315], delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain as follows.
- (b) Findings of fact.
 - (1) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
 - (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
- (c) Statement of purpose. It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - (1) Protect human life and health;

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- (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; and
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas.

(Ordinance 20-FLO-Y, art. 1, adopted 2/10/1987)

§ 4.04.002. Definitions.

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

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this article or a request for a variance.

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

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

Base flood means the flood having a one percent chance of being equalled or exceeded in any given year.

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

Development means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Elevated building means a nonbasement building (i) built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in zones V1-30, VE, or V, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X, D,

“elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zones V1-30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building,” even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of section 60.3(e)(5) of the National Flood Insurance Program regulations.

Lowest floor means 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 means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s flood insurance rate map are referenced.

New construction means, for floodplain management purposes, structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community.

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, 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.

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

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, either (i) before the improvement or repair is started, or (ii) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or

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other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(Ordinance 20-FLO-Y, art. 2, adopted 2/10/1987)

§ 4.04.003. General provisions.

- (a) Lands to which this article applies. This article shall apply to all areas of special flood hazard within the jurisdiction of the city.
- (b) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study for the City of Holland,” dated February 3, 1981, with accompanying flood insurance rate maps and flood boundary-floodway maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this article.
- (c) Establishment of development permit. A development permit shall be required to ensure conformance with the provisions of this article.
- (d) Compliance. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.
- (e) Abrogation and greater restrictions. This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (f) Interpretation. In the interpretation and application of this article, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (g) Warning and disclaimer of liability. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by 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 thereunder.

(Ordinance 20-FLO-Y, art. 3, adopted 2/10/1987)

§ 4.04.004. Administration.

- (a) Designation of floodplain administrator. The building inspector is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
- (b) 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 the proposed building site 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 commission [commission on environmental quality], prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
 - (8) When base flood elevation data has not been provided in accordance with section 4.04.003(b), the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of section 4.04.005.
 - (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated

development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(c) Permit procedures.

- (1) Application for a 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, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - (A) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
 - (B) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - (C) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 4.04.005(b)(2);
 - (D) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - (E) Maintain a record of all such information in accordance with subsection (b)(1) of this section.
- (2) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:
 - (A) The danger to life and property due to flooding or erosion damage;
 - (B) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (C) The danger that materials may be swept onto other lands to the injury of others;
 - (D) The compatibility of the proposed use with existing and anticipated development;
 - (E) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (F) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (G) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

- (H) The necessity to the facility of a waterfront location, where applicable;
- (I) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (J) The relationship of the proposed use to the comprehensive plan for that area.

(d) Variance procedures.

- (1) The appeal board as established by the community shall hear and render judgment on requests for variances from the requirements of this article.
- (2) The appeal board shall hear and render judgment on an appeal only when it is [TEXT ILLEGIBLE][??]
- (3) [??]
- (4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this article.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 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 subsection (c)(2) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this article, the 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 4.04.001(c)).
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Prerequisites for granting variances:
 - (A) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (B) Variances shall only be issued upon (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

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(C) Any applicant to whom 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.

- (10) 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 (i) the criteria outlined in subsections (d)(1) through (9) of this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ordinance 20-FLO-Y, art. 4, adopted 2/10/1987)

§ 4.04.005. Provisions for flood hazard reduction.

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

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

(b) Specific standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 4.04.003(b), section 4.04.004(b)(8), or subsection (c)(3) of this section, the following provisions are required:

- (1) Residential construction. New construction and substantial improvements of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in section 4.04.004(c)(1)(A), is satisfied.
- (2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and [TEXT ILLEGIBLE][??]
- (3) Enclosures. New construction and substantial improvements with fully enclosed areas below the lowest floor that 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 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 shall be installed using methods and practices which minimize flood damage. For the purpose 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) All manufactured homes shall be in compliance with subsection (b)(1) of this section.
 - (C) Require that all manufactured homes to be placed or substantially improved within zones A1-30, AH and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (b)(4) of this section.

(c) Standards for subdivision proposals.

- (1) All subdivision proposals including manufactured home parks and subdivisions shall be consistent with section 4.04.001(b), (c), and (d) of this article.
- (2) All proposals for the development of subdivisions including manufactured home parks and subdivisions shall meet the development permit requirements of section 4.04.003(c) and section 4.04.004(c) and the provisions of this section.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to section 4.04.003(b) or section 4.04.004(b)(8) of this article.
- (4) All subdivision proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All subdivision proposals including manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(d) Standards for areas of shallow flooding (AO/AH zones). Located within the areas of special flood hazard established in section 4.04.003(b) are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and 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 above 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 above 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 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 of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this subsection, as proposed in section 4.04.004(c)(1)(A), are satisfied.
- (4) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

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- (e) Floodways. Located within the areas of special flood hazard established in section 4.04.003(b), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development, unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (2) If subsection (e)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

(Ordinance 20-FLO-Y, art. 5, adopted 2/10/1987)

ARTICLE 4.05
MOBILE HOMES

§ 4.05.001. Liability.

Any officer or employee of the city charged with the enforcement of this article, acting for the applicable governing body in the discharge of his duties, shall not render himself liable personally, and he is hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties.

(Ordinance 4-BU-N, sec. 1.3, adopted -/-/1994)

§ 4.05.002. Penalty.

- (a) Any person, party in interest, firm or corporation who shall willfully violate, or fail to comply with, any portion of this article or with any of the requirements set forth in this article, either by act of omission or commission, shall be prosecuted within the limits provided by state law and upon conviction be deemed guilty of a misdemeanor and shall be fined not less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00), and each and every day's violation shall constitute a separate and distinct offense.
- (b) In the event a corporation is the violator of any of the provisions of this article, each officer, agent and/or employee of such corporation who is responsible for or contributes to such violation in any manner shall be individually and severally liable for the penalties herein prescribed.

(Ordinance 4-BU-N, sec. 1.4, adopted -/-/1994)

§ 4.05.003. Specific use permit required.

No mobile homes may be brought into the city to be used as a “mobile home as a fixed dwelling” or as a “mobile home dwelling” until a specific use permit has been obtained.

(Ordinance 4-BU-N, sec. 2.1, adopted -/-/1994)

§ 4.05.004. Definitions.

Mobile home as a fixed dwelling. A dwelling designed to be transported intact on the highway which is placed on a standard building lot, connected to utilities, placed on permanent supports and occupied as a fixed dwelling.

Mobile home dwelling. A dwelling unit designed as a house trailer or mobile home which is made immobile and used as a temporary or permanent dwelling or as part of a permanent dwelling, including any structure transported on a metal frame with wheels, regardless of number or parts in which it is transported, but not including pickup campers or travel trailers used temporarily for camping or outings.

(Ordinance 4-BU-N, sec. 2.2, adopted -/-/1994)

§ 4.05.005. Application for permit.

A specific use permit may be applied for by filing the request with the city secretary and paying an application fee as set forth in the fee schedule in appendix A of this code.

(Ordinance 4-BU-N, sec. 2.3, adopted -/-/1994; Ordinance adopting Code)

§ 4.05.006. Granting of permit.

In authorizing a specific use permit for a mobile home as a fixed dwelling or a mobile home dwelling, the city council may impose such development standards and safeguards as the conditions and locations dictate in order to promote the welfare and protection of adjacent property from excessive noise, odor, offensive view or other undesirable or hazardous condition. Further, the city council may consider whether any or all of the adjoining property owners approve or disapprove of the application for specific use permit.

(Ordinance 4-BU-N, sec. 2.4, adopted -/-/1994)

§ 4.05.007. Conditions of permit.

A specific use permit issued for the purpose of a mobile home as a fixed dwelling or as a mobile home dwelling shall have the following requirements:

- (1) The permit shall be nontransferable.
- (2) The permit shall be issued only to the owner of a mobile home for residential purposes by said owner. “Residential purposes” may include residential leases.
- (3) That all mobile homes and any additions thereto shall comply with the city building code and the Southern Building Code.

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- (4) That no mobile home shall be placed within 75 feet of an existing residence or commercial building nor within 15 feet of any property line.
- (5) That all mobile homes shall be skirted within 75 days from the date the mobile home arrived on the site.
- (6) That all mobile homes shall have operable smoke and fire alarms.

(Ordinance 4-BU-N, sec. 2.5, adopted -/-/1994)

§ 4.05.008. Utility connections.

In addition to the specific use permit, any mobile home used as a “fixed dwelling” or as a “mobile home dwelling” shall have all utility connections approved by the city building inspector.

- (1) Utility connection inspections shall include an inspection of electricity, gas, water and sewer connections.
- (2) There shall be an inspection fee as set forth in the fee schedule in appendix A of this code for each utility connection inspection.
- (3) An inspection may be requested from the city after the city has issued a special use permit.

(Ordinance 4-BU-N, sec. 2.6, adopted -/-/1994; Ordinance adopting Code)

§ 4.05.009. Expiration of permit.

If the property for which a specific use permit has been issued is vacant for a period of 6 months, the permit shall be deemed to have expired and will no longer be valid.

(Ordinance 4-BU-N, sec. 2.7, adopted -/-/1994)

§ 4.05.010. Moving mobile home.

The movement of a mobile home for which a special use permit has been granted from one location to another shall be deemed the movement of a new mobile home requiring a new specific use application and inspection.

(Ordinance 4-BU-N, sec. 2.8, adopted -/-/1994)

Chapter 5

BUSINESS REGULATIONS

**ARTICLE 5.01
GENERAL PROVISIONS (RESERVED)**

**ARTICLE 5.02
PEDDLERS AND SOLICITORS**

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- § 5.02.002. Permit required.
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- § 5.02.005. Refusing to leave.
- § 5.02.006. Entrance to premises restricted.
- § 5.02.007. Hours of operation.
- § 5.02.008. Soliciting at intersection.
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- § 5.02.018. Contents of permit.
- § 5.02.019. Display of permit.
- § 5.02.020. Duration of permit.
- § 5.02.021. Denial or revocation of permit; appeals.
- § 5.02.022. Penalty.
- § 5.02.023. Enforcement.

**ARTICLE 5.01
GENERAL PROVISIONS (RESERVED)**

**ARTICLE 5.02
PEDDLERS AND SOLICITORS**

§ 5.02.001. 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:

Garage sale means a bona fide sale commonly known as or advertised as garage sale, lawn sale, attic sale, rummage sale, or any similar casual sale of personal used goods or merchandise upon a residential property provided not more than one sale per four-month period occurs upon the residential property which lasts not longer than two consecutive days.

Noncommercial purpose or cause means a purpose or cause not created, existing or espoused for the generation of profit or the remuneration of individuals, including, but not limited to, the religious or charitable solicitation of contributions, seeking political support or contributions, the promotion of civic causes, the promotion of conservation of resources or

animals, advocating a philosophy or religion, or minors conducting fundraising activities, who represent an organization for the benefit of youths, including but not limited to Boy Scouts, Girl Scouts, Little League groups, and school groups.

Peddler means any person, whether a resident of this city or not, who sells or offers for sale for immediate delivery any goods, merchandise, or products by carrying goods, merchandise or products from place to place, house to house, business to business, street to street, or upon public property. Transfer of payment at the time of sale or later is immaterial. The word “peddler” shall include the terms “solicitor,” “itinerant vendor” and “commercial solicitor.” This term shall not include individuals connected with a noncommercial purpose or cause.

Permit holder means any person holding a current permit or license issued pursuant to this article.

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

Services means the performance of labor for the benefit of another or at another’s command.

Solicitor means any person who solicits or attempts to solicit the sale or conveyance of any order for services, commercial goods, wares, merchandise, subscriptions, publications, food or products to be delivered at a future date or time by soliciting from place to place, house to house, business to business, street to street, or upon public property.

(Ordinance 032309-2, sec. 1, adopted 3/23/2009)

§ 5.02.002. Permit required.

It shall be unlawful for any peddler or solicitor to engage in business within the city without first obtaining a peddler’s permit from the city secretary as provided in this article. No permit shall be granted for a use at a fixed location which does not comply with the zoning district regulations for the fixed location upon which the use is proposed.

(Ordinance 032309-2, sec. 2, adopted 3/23/2009)

§ 5.02.003. Exceptions.

The provisions of section 5.02.002 shall not apply to the following upon private premises within the city or public property when specifically noted:

- (1) Ordinary commercial travelers or salesmen, transacting business only at wholesale dealers or with dealers in such goods or in goods or services for use in manufacturing or commercial purposes;
- (2) Sheriff’s constables, bona fide assignees, receivers or trustees in bankruptcy or other public officers selling goods, wares and merchandise according to law;

- (3) Solicitations, sales or distributions made for noncommercial purposes or causes, whether community service, charitable, educational or religious, shall not be required to obtain a permit. A mobile food establishment that is operated by a nonprofit, community service or religious group to provide food to the elderly at no charge, such as meals-on-wheels, or other similar charitable operation shall be exempt from a permit under this exception;
- (4) Newspaper carriers and newspaper vending machines, provided also vending machines may be located upon a public sidewalk immediately outside a commercial business in a location which does not interfere with pedestrians or public use of the sidewalk;
- (5) Sales conducted pursuant to statute or by order of any court;
- (6) Persons or transactions associated with bona fide trade shows, exhibits, expositions or conventions where all transactions of purchase, sale or exchange are made in connection with such trade show, exhibit, exposition or convention and within the confines of the approved area of the trade show, exhibit, exposition or convention sites;
- (7) Individual, one-time only sale of personal property items sold by the owner thereof at his private residence or business or an auctioneer;
- (8) Organized community and festival events held by authority of agreements or special permits issued by the city council or held upon public premises or in or upon public parks under the auspices or sponsorship or within the regular administration of the parks and recreation department of the city;
- (9) Authorized contractual concessions permitted upon city premises by agreement, lease or contract with the city duly authorized by the city council;
- (10) Delivery services to permanent established businesses in the city which operate on-site and by agreement with or invitation of such individuals, industries or businesses;
- (11) Garage sales on private property;
- (12) An auctioneer conducting an auction of an estate or other similar auction shall be exempt from the permit requirements of this article provided the auction is conducted wholly on private property not more often than once in a six-month period; and
- (13) Lemonade stands and similar activity conducted and operated entirely by children under the age of sixteen (16) years and upon the private residential premises of such children.

(Ordinance 032309-2, sec. 3, adopted 3/23/2009)

§ 5.02.004. Use of public property.

It shall be unlawful for any peddler or solicitor to sell or solicit or take orders for or offer to sell or take orders for or display any goods, wares, merchandise, animals, photographs, newspapers, magazines, food, drink or confection on any public square, park, street, road, highway, alley, sidewalk or other public property within the limits of the city without having first obtained an appropriate permit authorizing the specific activity at such location as

provided for in this article. Noncommercial purposes or causes shall be exempt from permit requirements provided no goods are sold and the activities do not interfere with traffic.

(Ordinance 032309-2, sec. 4, adopted 3/23/2009)

§ 5.02.005. Refusing to leave.

Any peddler or solicitor who enters upon any premises and refuses to leave such premises, after having been notified or requested to leave by the owner, occupant or person in charge or control of such premises, shall be deemed guilty of a misdemeanor.

(Ordinance 032309-2, sec. 5, adopted 3/23/2009)

§ 5.02.006. Entrance to premises restricted.

It shall be unlawful for any peddler or solicitor to enter upon any private premises or to ring the doorbell or rap or knock in any way in a manner calculated to attract the attention of the occupant when such premises are posted with a sign stating “no peddlers allowed” or “no solicitations allowed” or other words to such effect.

- (1) A person desiring that no merchant or other person engage in home solicitation at his or her residence or business shall exhibit in a conspicuous place upon or near the main entrance to the building, a weatherproof card, not less than three inches by four inches in size, containing the words “no peddlers allowed” or “no solicitations allowed” or other words to such effect. The letters shall not be less than two-thirds of an inch in height. Everyone permitted under this article, upon going onto any premises upon which a building is located, shall first examine the main entrance to the building to determine if any notice prohibiting soliciting is exhibited upon or about the main entrance of the building. If a notice complying with this section is exhibited, the permittee shall immediately depart from the premises without disturbing the occupant, unless the visit is the result of a request by the occupant.
- (2) No person shall go upon any residential premises and ring the doorbell, or rap or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence or for the purpose of securing an audience with the occupant or engaging in or attempting to engage in a home solicitation transaction if a card, as described in subsection (1) of this section, is exhibited in a conspicuous place upon or near the main entrance to the building, unless the visit is the result of a request made by the occupant.
- (3) No person, other than the occupant of the building, shall remove, deface or render illegible a card placed by the occupant pursuant to subsection (1) of this section.
- (4) Any person required to be permitted under this article who has gained entrance to a residence, business or other such premises, for audience with the occupant, whether invited or not, shall immediately depart from the premises without disturbing the occupant further when requested to leave by an occupant.
- (5) Failure to comply with notice signs as provided in subsection (1) or (2) above, refusal to leave when asked as provided in section 5.02.006 [5.02.005][??], and operation after

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hours as established in section 5.02.007 shall be grounds for revocation of a permit or denial of a permit upon application.

(Ordinance 032309-2, sec. 6, adopted 3/23/2009)

§ 5.02.007. Hours of operation.

It shall be unlawful for any peddler or solicitor to engage in the business of peddling or soliciting within the city between the hours of 8:00 p.m. and 6:00 a.m. the following morning, or at any time on Sundays; provided that the following exceptions shall apply to this section only:

- (1) The business is conducted pursuant to a specific appointment with, or invitation from, the prospective customer, or with a customer attending an advertised or invitational meeting held by such solicitor or peddler; or
- (2) The business is conducted at a location situated on property zoned for a commercial or retail use and the customer travels to such location for the purpose of conducting such business.

(Ordinance 032309-2, sec. 7, adopted 3/23/2009)

§ 5.02.008. Soliciting at intersection.

It shall be unlawful for any person to solicit funds, to peddle, to advertise, or to distribute any item within the public right-of-way of any roadway within a distance of less than 50 feet from the center of any intersection or crossing of streets within the city limits. It is a defense to prosecution that the activity was conducted wholly upon private property and otherwise permitted under the ordinances of the city.

(Ordinance 032309-2, sec. 8, adopted 3/23/2009)

§ 5.02.009. Misrepresentation.

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of any goods, wares, merchandise or services for the purpose of inducing another to purchase the same.

(Ordinance 032309-2, sec. 9, adopted 3/23/2009)

§ 5.02.010. Information required for permit.

It shall be unlawful to engage in business as a peddler or solicitor within the city without first obtaining a permit. Such permit shall be obtained by registering with the city secretary and providing information under oath. The permit shall be a peddler's permit. Prior to the issuance of a permit, the city secretary shall obtain all of the following information and any other information deemed pertinent and necessary:

- (1) Date of registration;
- (2) Name of registrant;

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- (3) Driver's license number;
- (4) Date of birth;
- (5) Home address;
- (6) Local address (if any);
- (7) Nature of items or services to be sold or solicited;
- (8) Whether the registrant has ever been convicted of a felony of any nature or any other crime of moral turpitude and, if so, the place, date, and crime of which convicted;
- (9) Tax identification number; and
- (10) Any facts showing that the registrant is engaged in interstate commerce.

(Ordinance 032309-2, sec. 10, adopted 3/23/2009)

§ 5.02.011. Contents of application for permit.

The application for a permit required by this article shall, in addition to the information required pursuant to section 5.02.010, state or contain the following:

- (1) A statement as to whether or not the applicant has been convicted of any crime or violation of any state or federal law or municipal ordinance or code, the nature of the offense, the punishment or penalty assessed therefor if previously convicted, and the place of conviction.
- (2) All food vendors shall provide documentation to establish compliance with all city, state and county food handler regulations. Such documentation shall include the food handler permits and other permits required to be obtained from the Bell County Health District.
- (3) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery.
- (4) The period of time the applicant wishes to engage in business within this city.
- (5) The local and permanent address and the name of the person, if any, that the applicant represents; the applicant's tax identification number, if any.
- (6) The last five cities or towns wherein the applicant worked before coming to this city.
- (7) Statement of the areas in which activities will be carried out, i.e., if on public property the specific locations, if only door-to-door residential the subdivisions, etc.

(Ordinance 032309-2, sec. 11, adopted 3/23/2009)

§ 5.02.012. False information.

It shall be unlawful for any person to give any false or misleading information in connection with his or her application for a permit or a license required pursuant to this article. The applicant may not sell merchandise or solicit services not disclosed in the permit application.

(Ordinance 032309-2, sec. 12, adopted 3/23/2009)

§ 5.02.013. Photographs and background check.

At the time of making application for a permit, the applicant for a peddler or solicitor permit shall submit to a background check and photographing by the city.

(Ordinance 032309-2, sec. 13, adopted 3/23/2009)

§ 5.02.014. Bond required.

(a) The applicant for a peddler permit to sell tangible goods or merchandise shall include with the application a bond in the penal sum of \$5,000.00, signed by the applicant and by some surety company authorized to do business in this state, conditioned for the final delivery of goods, wares, merchandise or services in accordance with the terms of any order obtained prior to delivery and also conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist in the article sold by the principal of such bond, at the time of delivery, and that may be discovered by such purchaser or customer within 30 days after delivery. Such bond shall be for the use and benefit of all persons that may make any purchase or give any order to the principal on such bond, or to an agent or employee of such principal.

(b) Peddlers or solicitors selling food products or soliciting services solely shall not be required to have a bond.

(Ordinance 032309-2, sec. 14, adopted 3/23/2009)

§ 5.02.015. Permit fee.

Before any permit shall be issued under the provisions of this article:

- (1) The applicant for a peddler permit for door-to-door peddling or solicitation shall pay a fee, based upon the time period he or she desires to engage in business in the city, as set forth in the fee schedule in appendix A of this code.
- (2) The applicant shall also obtain all inspections and permits required under any other ordinance or regulation of the city or the Bell County Health District.
- (3) Notwithstanding subsection (1) above, if an individual shall establish that he or she is engaged in interstate commerce and is exempt from the permit fee requirements pursuant to federal law, or that the imposition of such fee constitutes a burden and a constraint on interstate commerce, then in such event, such individual shall not be required to pay any fee established by this section.

(Ordinance 032309-2, sec. 15, adopted 3/23/2009; Ordinance adopting Code)

§ 5.02.016. Issuance of permit.

No permit shall be issued under the provisions of this article until the applicant shall have complied with all the provisions and requirements of this article applicable to such permit. No permit or license shall be issued to a corporation, partnership or other impersonal legal entity, but each individual person engaging in the business of peddling or soliciting within the city shall be required to have a permit or license, whether acting for himself or as an agent or representative of another.

(Ordinance 032309-2, sec. 16, adopted 3/23/2009)

§ 5.02.017. Sales tax remittal.

Every permittee for which sales tax is required to be collected and remitted to the State of Texas shall as a condition of the permit collect and remit sales tax according to state requirements. The city, as a condition of a permit, may require the permittee to demonstrate compliance with state sales tax regulations. Failure to produce sufficient evidence of payment of sales tax may be a reason for denial of a permit or a permit renewal, or revocation of a permit.

(Ordinance 032309-2, sec. 17, adopted 3/23/2009)

§ 5.02.018. Contents of permit.

Each permit issued under the provisions of this article shall be signed by the appropriate authority issuing the permit, dated as of the date of its issuance, and shall state the duration or term of such permit on the face thereof. Any permit not dated and signed as provided in this section shall be void.

(Ordinance 032309-2, sec. 18, adopted 3/23/2009)

§ 5.02.019. Display of permit.

Every permit holder having a permit issued under this article or required to have a permit and doing business within the city or any individual listed on a permit shall display his or her permit or copy of same upon the request of any person, and failure to do so shall be deemed a misdemeanor. Peddlers and solicitors shall wear the permit from a necklace or pin on the front of the individual's body clearly visible therefrom.

(Ordinance 032309-2, sec. 19, adopted 3/23/2009)

§ 5.02.020. Duration of permit.

Every permit issued under the provisions of this article shall be valid for the period of time stated therein, but in no event shall any such permit or license be issued for a period of time in excess of 12 months, or any lesser period of time provided for in this article.

(Ordinance 032309-2, sec. 20, adopted 3/23/2009)

§ 5.02.021. Denial or revocation of permit; appeals.

- (a) Denial. The city reserves the right to deny an application for a permit to any person who has:
- (1) In the past 12 months:
 - (A) Had a permit issued under this article revoked;
 - (B) Been convicted of a felony in the past 10 years;
 - (C) Failed to pay sales tax;
 - (D) Received a complaint that solicitation or peddling occurred during the prohibited times identified herein; or
 - (E) Otherwise violated this article.
 - (2) In the past 36 months:
 - (A) Had a valid complaint that goods were ordered but not delivered;
 - (B) Had more than one valid complaint that goods were delivered that were not the goods promised; or
 - (C) Been convicted of a misdemeanor charge involving crimes of moral turpitude.
 - (3) The permit application does not comply with this article or other applicable ordinances, rules, regulations or statutes.
- (b) Revocation. Any permit issued under the provisions of this article may be revoked for the violation by the permittee or licensee of any provision of this article, state law or other ordinance that directly relates to the duties and responsibilities of the permittee or licensed occupation authorized in the permit. Upon such revocation, such permit shall immediately be surrendered to the authority that issued the permit, and failure to do so shall be deemed a misdemeanor.
- (c) Appeals. Any person aggrieved by the denial or revocation of a permit may appeal within five days of the denial or surrender of the permit by written appeal tendered to the city secretary. A timely filed appeal shall suspend the revocation pending administrative reconsideration by the mayor. The mayor may uphold, revise or overturn the denial or revocation. If the mayor upholds the denial or revocation, the decision shall be effective immediately as to the revocation. Any person aggrieved by the decision of the mayor must appeal to the city council within ten (10) days from the decision of the mayor being mailed to the aggrieved person in writing by tendering a written appeal to the city secretary. The city council shall hear the appeal at the next available regular or special city council meeting. The decision of the city council is final.

(Ordinance 032309-2, sec. 21, adopted 3/23/2009)

§ 5.02.022. Penalty.

Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of five hundred dollars (\$500.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein. Evidence of a culpable mental state shall not be required to establish a violation of this article.

(Ordinance 032309-2, sec. 22, adopted 3/23/2009)

§ 5.02.023. Enforcement.

For the purposes of discharging the duties imposed by this article and to enforce its provisions, any peace officer or code enforcement officer is empowered to enter upon any premises for which a permit is issued and take such action to enforce this article as permitted in the Code of Criminal Procedure. Unless otherwise specifically set forth in the ordinances of the city, or in the state law as adopted, allegations and evidence of culpable mental state are not required for proof of an offense.

(Ordinance 032309-2, sec. 23, adopted 3/23/2009)

Chapter 6

FIRE PREVENTION AND PROTECTION

**ARTICLE 6.01
GENERAL PROVISIONS**

- § 6.01.001. Driving over or injuring fire hose.
- § 6.01.002. Vehicles to be cleared from streets when alarm is sounded.
- § 6.01.003. Unauthorized use of fire trucks and equipment.
- § 6.01.004. False alarms.
- § 6.01.005. Arson reward.

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- § 6.02.001. Office created.
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- § 6.02.004. Power to summon witnesses and require production of evidence.
- § 6.02.005. Misconduct of witnesses.
- § 6.02.006. Investigations may be private.
- § 6.02.007. Authority to enter premises where fire has occurred.
- § 6.02.008. Inspections for fire hazards; order to correct conditions.
- § 6.02.009. Maintaining dangerous building or premises.

- § 6.02.010. Maintaining dangerous equipment or storage.
- § 6.02.011. Order required before prosecution.
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**ARTICLE 6.03
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- § 6.03.001. Adoption; amendments.
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- § 6.04.001. Restricted.
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- § 6.05.001. Sale, possession and use prohibited.
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ARTICLE 6.01
GENERAL PROVISIONS

§ 6.01.001. Driving over or injuring fire hose.

- (a) It shall be unlawful for any person or persons to cut, deface, tear or otherwise injure or drive over any hose belonging to the city or to the city fire department.
- (b) Any person who shall willfully, knowingly or carelessly violate this section shall be deemed guilty of a misdemeanor and fined in any sum not to exceed one hundred dollars (\$100.00).

(Ordinance 6-F-Y adopted 2/24/1930)

§ 6.01.002. Vehicles to be cleared from streets when alarm is sounded.

- (a) Whenever an alarm is sounded, all streets and alleys within the vicinity of the fire department headquarters and in the vicinity of and leading to the fire shall be cleared of cars and vehicles, so that same be not obstructed, and there shall be nothing to prevent the free progress of the firemen and fire apparatus to the fire.
- (b) Any person who shall willfully, knowingly or carelessly violate this section shall be deemed guilty of a misdemeanor and fined in any sum not to exceed one hundred dollars (\$100.00).

(Ordinance 6-F-Y adopted 2/24/1930)

§ 6.01.003. Unauthorized use of fire trucks and equipment.

- (a) It shall be unlawful for any person or persons, not members of the city department, in good standing, to drive, ride upon, or use in any way any fire trucks or other equipment unless authorized by the fire chief.
- (b) Any person who shall willfully, knowingly or carelessly violate this section shall be deemed guilty of a misdemeanor and fined in any sum not to exceed one hundred dollars (\$100.00).

(Ordinance 6-F-Y adopted 2/24/1930)

§ 6.01.004. False alarms.

- (a) It shall be unlawful for any person or persons to turn in a false alarm, unless said person, or persons, can show just cause or reason for the alarm.
- (b) Any person who shall willfully, knowingly or carelessly violate this section shall be deemed guilty of a misdemeanor and fined in any sum not to exceed one hundred dollars (\$100.00).

(Ordinance 6-F-Y adopted 2/24/1930)

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§ 6.01.005. Arson reward.

- (a) The mayor of the city is hereby required, authorized and empowered to offer a standing reward of two hundred fifty dollars (\$250.00) payable to the person or persons who shall be responsible for the arrest and conviction of any person committing in the city the crime of arson as the same is now defined by the Penal Code of the state.
- (b) The reward offer shall be published in the form of a brief description of the nature of the reward printed on a placard, duly issued by said mayor under his official signature and attested by the city secretary and the seal of the city, and which shall be posted up in conspicuous places, one of which shall be at the city hall in accordance with the regulations of the ==state fire insurance department.
- (c) Whenever the mayor shall be informed that any fire occurring in the city was of an incendiary origin, he shall call for a report on the same by the city fire marshal, and if said marshal shall report that such fire was caused by the commission of said crime of arson, it shall become the duty of said mayor to offer the reward above described.
- (d) Upon information being given by any person or persons who shall cause the arrest and conviction of such persons so guilty of a specific crime of arson for which said reward shall be offered, and after the final conviction of such person or persons, the person or persons so giving such information shall be entitled to receive from the city the said reward.

(Ordinance 12-OF-Z adopted 6/14/1965)

**ARTICLE 6.02
FIRE MARSHAL**

§ 6.02.001. Office created.

The office of fire marshal is hereby created. Such office shall be independent of other city departments, the fire marshal reporting directly to the mayor and the city commission or council. Such office shall be filled by appointment by the mayor, by and with the consent of the city commission or council, within 10 days after this article shall take effect. The said fire marshal shall be properly qualified for the duties of his office, and shall be removed only for cause. He shall receive an annual salary of \$12.00 (twelve dollars), payable in monthly installments, as full compensation for his services.

(Ordinance 6-F-Z, sec. 1, adopted 3/9/1925)

§ 6.02.002. Duty to investigate fires.

The fire marshal shall investigate the cause, origin and circumstances of every fire occurring within this city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within twenty-four hours, not including Sunday, of the occurrence of such fire. The fire marshal shall keep in his office records of all fires, together

with all facts, statistics and circumstances, including the origin of the fires and the amount of the loss, which may be determined by the investigation required by this article.

(Ordinance 6-F-Z, sec. 2, adopted 3/9/1925)

§ 6.02.003. Duty when evidence indicates arson.

The fire marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony, on oath, of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with the attempt to commit the crime of arson, or of conspiracy to defraud, or criminal conduct, in connection with such fire, he shall cause such person to be lawfully arrested and charged with such offense or either of them, and shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

(Ordinance 6-F-Z, sec. 3, adopted 3/9/1925)

§ 6.02.004. Power to summon witnesses and require production of evidence.

The fire marshal shall have the power to summon witnesses before him to testify in relation to any matter which is by the provisions of this article a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto. The said fire marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

(Ordinance 6-F-Z, sec. 4, adopted 3/9/1925)

§ 6.02.005. Misconduct of witnesses.

Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of said fire marshal, or who fails or refuses to produce any book, paper or document touching under any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of said investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a misdemeanor; and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted. Any person being convicted of any such demeanor shall be fined in a sum not exceeding twenty-five dollars (\$25.00). Provided, however, that any person so convicted shall have the right of appeal.

(Ordinance 6-F-Z, sec. 5, adopted 3/9/1925)

§ 6.02.006. Investigations may be private.

All investigations held by or under the direction of the fire marshal may, in his discretion, be private, and persons other than those required to be present may be excluded from the place

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where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

(Ordinance 6-F-Z, sec. 6, adopted 3/9/1925)

§ 6.02.007. Authority to enter premises where fire has occurred.

The fire marshal shall have the authority at all time of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this article, to enter upon and examine any building or premises where any fire has occurred and other buildings and premises adjoining or near the same, which authority shall be exercised only with reason and good discretion.

(Ordinance 6-F-Z, sec. 7, adopted 3/9/1925)

§ 6.02.008. Inspections for fire hazards; order to correct conditions.

The fire marshal, upon complaint of any person having an interest in any building or property adjacent, and without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within the city, and it shall be his duty, quarterly or more often, to enter upon and make, or cause to be entered upon and made, a thorough examination of all mercantile, manufacturing and public buildings, together with the premises belonging thereto. Whenever he shall find any building or other structure which, for want of repair, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind whatsoever, including chimneys, flues, and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous unlawful storage of explosive compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustible, inflammable and refuse materials, or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firemen or occupants, he shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of said building or premises. Provided, however, that if said owner or occupant deems himself aggrieved by such order, he may, within five (5) days, appeal to the mayor, who shall investigate the cause of the complaint, and unless by his authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant.

(Ordinance 6-F-Z, sec. 8, adopted 3/9/1925)

§ 6.02.009. Maintaining dangerous building or premises.

Any owner or occupant of a building or other structure or premises who shall keep or maintain the same when, for want of repair, or by reason of age or dilapidated condition, or for any cause, it is especially liable to fire, and which is so situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that fire would

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endanger other persons or their property therein, shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

(Ordinance 6-F-Z, sec. 9, adopted 3/9/1925)

§ 6.02.010. Maintaining dangerous equipment or storage.

Any owner or occupant of any building or other structure, or premises, who shall keep or maintain the same with an improper arrangement of a stove, range, furnace, or other heating appliance of any kind whatever, including chimneys, flues, and pipes with which the same may be connected, so as to be dangerous in the matter of fire, or health or safety of persons or property of others; or who shall keep or maintain any building, other structure or premises with an improper arrangement of a lighting device or system, or with a storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, inflammable materials, or refuse or with any other condition which shall be dangerous in character to the persons, health or property of others; or which shall be dangerous in the matter of promoting, augmenting or causing fires; or which shall create conditions dangerous to firemen, or occupants of such building, structure or premises other than the maintainor thereof, shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

(Ordinance 6-F-Z, sec. 10, adopted 3/9/1925)

§ 6.02.011. Order required before prosecution.

No prosecutions shall be brought under sections 6.02.009 and 6.02.010 of this article until the order provided for in section 6.02.008 be given, and the party notified shall fail or refuse to comply with the same.

(Ordinance 6-F-Z, sec. 11, adopted 3/9/1925)

§ 6.02.012. Recovery of penalties.

The penalties provided for herein shall be recovered by the city in the same manner as provided by law for enforcement of fines, forfeitures, and punishment of offenses against the city.

(Ordinance 6-F-Z, sec. 12, adopted 3/9/1925)

§ 6.02.013. Continuing violations.

Every day's maintenance of any of the conditions prohibited in any of the foregoing sections shall be a distinct and separate offense.

(Ordinance 6-F-Z, sec. 13, adopted 3/9/1925)

§ 6.02.014. Enforcement.

All misdemeanors herein provided for shall be prosecuted, and all fines and forfeitures herein provided for shall be recovered and enforced, in the same manner as provided for by law for

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the enforcement of fines, forfeitures, penalties and punishments for offenses generally against the city.

(Ordinance 6-F-Z, sec. 14, adopted 3/9/1925)

ARTICLE 6.03

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§ 6.03.001. Adoption; amendments.

(a) Adoption. A certain document, a copy of which is on file in the office of the city secretary, being marked and designated as the International Fire Code, 2018 edition, as published by the International Code Council, is hereby adopted as the fire code of the city for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code 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 article, with the additions, insertions, deletions and changes, if any, prescribed in subsection (b) of this section.

(b) Amendments. The following sections of the fire code are hereby amended as follows:

Section 101.1 (Jurisdiction). Insert: The City of Holland, Texas.

Section 106.2 (Inspections). Add the following to the end: The fire code official shall complete inspections and review of submitted subdivision plats within ten (10) days of receipt of the plat by the fire code official.

Section 111.4 (Failure to comply). Insert: Not less than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000.00).

(Ordinance 6-21-21, sec. 1, adopted 6/21/2021)

§ 6.03.002. Fees.

The city shall charge and collect such rates and fees as adopted by the city council.

(Ordinance 6-21-21, sec. 2, adopted 6/21/2021)

§ 6.03.003. Prior amendments preserved.

All ordinances heretofore adopted by the city council amending an earlier edition or version of this code shall be and remain in full force and effect. Such prior amendatory ordinances shall, to the fullest extent possible, be read together with and reconciled with the above applicable code and interpreted in a manner to give effect to both. If any such prior amendatory ordinance cannot be reconciled with the applicable and above-listed code, then,

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in that event, the amendatory ordinance shall control and govern to the extent of such conflict.

(Ordinance 6-21-21, sec. 3, adopted 6/21/2021)

§ 6.03.004. Enforcement.

- (a) No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the city for or with respect to any lot, tract or parcel of land within the city limits, after the effective date of this article, except in compliance with all then-applicable requirements of this article and the above code.
- (b) This article and any code or provision adopted by this article may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this article, with respect to any land, building or development within the city, [is punishable][??] by fine and penalties as provided herein.

(Ordinance 6-21-21, sec. 5, adopted 6/21/2021)

**ARTICLE 6.04
OPEN BURNING**

§ 6.04.001. Restricted.

No person may cause, suffer, allow or permit any outdoor burning within the city except as provided in this article.

(Ordinance 07-17-2017, sec. 2, adopted 7/17/2017)

§ 6.04.002. Authorized burning.

- (a) City brush pile site.
 - (1) Outdoor burning is authorized by the city at the city brush pile site, 420 North Franklin, Holland Texas, once such site has received burn approval from the state commission on environmental quality (TCEQ) executive director, and may be done not more frequently than once every two months. A copy of the written permission from TCEQ to conduct the outdoor burn must be presented to the fire chief, who shall be notified and work with the city each time the city schedules a burn. The public shall be notified by one or more of the following methods: (i) placing a notice in the city's utility bill the month prior to such burn, or (ii) placing a notice on the city's website and posting such notice at city hall.
 - (2) Such request of the TCEQ executive director shall demonstrate that there is no practical alternative to the outdoor burning, and that the proposed burning will not present, cause, or contribute to a violation of the Texas Clean Air Act, and further that it will not present, cause or contribute to an undue fire hazard, with

means for effectively controlling such fire having been taken into consideration prior to the issuance of the permit.

- (b) Firefighter training. Outdoor burning [is authorized][??] for the purpose of training firefighting personnel, provided that this provision shall not be used as a means of circumventing the general prohibition stated in this article.

(Ordinance 07-17-2017, sec. 2, adopted 7/17/2017)

§ 6.04.003. General requirements.

All allowable outdoor burning shall be subject to following requirements unless specifically stated otherwise:

- (1) All burning shall comply with Texas Administrative Code title 30, chapter 111, subchapter B.
- (2) Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public road, landing strip, navigable water or off-site structure containing sensitive receptors.
- (3) Burning shall only be allowed on tracts of land 2 acres or larger.
- (4) If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post flagpersons on affected roads.
- (5) Burning must be conducted no closer than 50 feet to structures or combustible materials and downwind of or at least 300 feet (90 meters) from any structure containing sensitive receptors located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control.
- (6) Burning shall be conducted in compliance with the following meteorological and timing considerations:
 - (A) The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset and shall be attended by a responsible party at all times during the active burn phase when the fire is progressing. In cases where residual fires and/or smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard condition. In no case shall the extent of the burn area be allowed to increase after this time.
 - (B) Burning shall not be commenced when surface wind speed is predicted to be less than six miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period. Nor shall burning be commenced if there is a drought index of more than 575 average. If burning has already commenced when one of the above conditions occurs, burning shall cease and the fire shall be extinguished as soon as practical.

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- (7) Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned. Additional examples of wastes which cannot be burned include, but are not limited to, such things as tires, furniture, carpet, electrical wire, plastics, rubber and appliances.

(Ordinance 07-17-2017, sec. 2, adopted 7/17/2017)

§ 6.04.004. Enforcement.

The civil and criminal provisions of this article shall be enforced by the persons or agencies designated by the city, including, but not limited to, the Bell County sheriff's department, the city police department, the building official, and the code enforcement officer. It shall be a violation of this article to interfere with a code enforcement officer, or other person authorized to enforce this article, in the performance of his or her duties.

(Ordinance 07-17-2017, sec. 3, adopted 7/17/2017)

§ 6.04.005. Penalty.

Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies, if any, provided herein.

(Ordinance 07-17-2017, sec. 4, adopted 7/17/2017)

**ARTICLE 6.05
FIREWORKS**

§ 6.05.001. Sale, possession and use prohibited.

- (a) Sale, possession, igniting, or exploding of fireworks, as defined in NFPA 1123, within the city limits is strictly prohibited.
- (b) Possession of fireworks is strictly prohibited. If a person is caught in possession of fireworks, the fireworks will be confiscated and a citation may be written.
- (c) Igniting or exploding of fireworks is strictly prohibited. If a person is caught igniting or exploding any fireworks within the city limits a citation for each offense may be written and the fireworks may be confiscated.

(Ordinance 04-062404-01B, sec. 1, adopted 6/28/2004)

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§ 6.05.002. Penalty; responsibility for injury or damage.

All of the offenses noted above are punishable by a fine not to exceed \$2,000.00 per charge. Any person exploding fireworks may additionally be held responsible/liable for any injury or damage caused by those fireworks.

(Ordinance 04-062404-01B, sec. 2, adopted 6/28/2004)

Chapter 7

HEALTH AND SANITATION

ARTICLE 7.01 GENERAL PROVISIONS

§ 7.01.001. Offensive animal pens or enclosures.

§ 7.01.002. Offensive drains or sewers.

§ 7.01.003. Prevention of spread of infectious and contagious diseases.

§ 7.01.004. Unsanitary conditions, stagnant water, and obstructions on public property.

§ 7.01.005. Sanitary keeping of toilets.

ARTICLE 7.01 GENERAL PROVISIONS

§ 7.01.001. Offensive animal pens or enclosures.

Any person who shall keep or use any pen or enclosure in which hogs, cattle or other animals are kept in this town in such a manner as to become offensive or an annoyance to any person whomsoever shall be deemed guilty of a misdemeanor and on conviction shall be fined not more than one hundred dollars (\$100.00).

(Ordinance 9-H&S-Z, sec. 1, adopted 12/19/1920)

§ 7.01.002. Offensive drains or sewers.

Any person who shall suffer or permit any privy, vault, sink, cellar, pool, private drain or sewer in or upon any premises owned or controlled by him to become nauseous, foul, offensive or injurious to the health of those who reside in the vicinity thereof shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100.00).

(Ordinance 9-H&S-Z, sec. 2, adopted 12/19/1920)

§ 7.01.003. Prevention of spread of infectious and contagious diseases.

- (a) The health officer or town council may establish such sanitary rules and regulations as are deemed necessary and any person violating such rules and regulations when so established or who shall at any time interfere with the health officer or marshal in the discharge of his duty shall be deemed guilty of a misdemeanor and on conviction shall be fined not more than one hundred dollars (\$100.00).
- (b) When in the opinion of the town council it shall become necessary for the preservation of health or prevention of disease to use any disinfectant or other precaution, the mayor or health officer may order the same to be done and any person who shall fail or refuse

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to obey such order shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100.00).

(Ordinance 9-H&S-X adopted 12/19/1920)

§ 7.01.004. Unsanitary conditions, stagnant water, and obstructions on public property.

- (a) All decaying or putrid carcasses of any cat, hog, dog or any other animal flesh, fish or vegetables or deposits of manure, offal or other unwholesome substances or filth of any description whatever; all filthy or offensive slops or water when thrown or conducted upon any street, alley, road or enclosure within the town so as to be unwholesome; all privies and slaughterhouses which have become offensive from use; all pork houses, pig pens, markets, stores, cellars or other buildings or places which are not kept clean and free from all filthy and unwholesome substances that are offensive or liable to engender disease; every trade, business or occupation injurious to the health of those who reside in the vicinity thereof; any lot retaining water until it becomes stagnant or which may be unwholesome from any other cause; and any article or substance placed upon any street, alley, sidewalk or public ground except as permitted by ordinance so as to obstruct the same are each and all hereby declared to be a nuisance and as such are liable to be abated.
- (b) Any person who shall in this town cause, create or keep any nuisance or permit the same to exist in or upon any place or premises under his control shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed one hundred dollars (\$100.00), and each and every day that any nuisance shall continue shall constitute a separate and distinct offense.

(Ordinance 9-H&S-Y adopted 12/19/1920)

§ 7.01.005. Sanitary keeping of toilets.

- (a) Every owner of a toilet, within the corporate limits of this town, is hereby required to equip each toilet with one or more Selig sanitary attachments, or some other method that will make the toilet sanitary and flyproof, and provide a receptacle that makes it convenient for the scavenger to handle. Where any other system than the Selig system is employed, it must meet the approval of the city council.
- (b) Every toilet within the corporate limits which shall be in use by anyone and which has not been provided with attachments which will be sanitary, and which has not been approved by the city council, shall be deemed to be a public nuisance.
- (c) Every person or persons, firms or corporations who shall own said toilets shall be deemed responsible for compliance with this section and anyone failing or refusing to comply with same shall be deemed guilty of a violation of this section, and anyone who violates this section shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), and each and every day shall constitute a separate offense.

(Ordinance 9-H&S-W adopted 8/18/1921)

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**ARTICLE 8.01
GENERAL PROVISIONS**

§ 8.01.001. Disturbances of the peace and affrays.

- (a) If any two or more persons shall fight together in a public place in the town they shall each be punished by a fine not exceeding one hundred dollars (\$100.00).
- (b) If any person shall go into or near any private house, or into or near any public place, in the town and shall use loud and vociferous language, or vulgar, obscene or indecent language, or swear or curse or yell or shriek, or expose his person, or rudely display a pistol or other deadly weapon in a manner calculated to disturb the inhabitants of such private house or public place, he shall be fined in any sum not exceeding one hundred dollars (\$100.00).
- (c) A public place within the meaning of the two preceding subsections is any public square or park, any public road, street or alley or any other public place within the town or any inn, tavern, store, grocery, workshop or place at which people are assembled or to which people commonly resort for purposes of business, amusement, recreation, pleasure or other lawful purposes. The term “public place” does not mean a place solely devoted to the public but it means which is commonly in point of fact public as distinguished from private.
- (d) If any person shall discharge any gun, pistol or firearm of any description on, near or across any public square, street or alley or in any other public place in town he shall be fined in any sum not to exceed one hundred dollars (\$100.00).

(Ordinance 17-TRA-Y adopted 12/19/1920)

**ARTICLE 8.02
NOISE**

§ 8.02.001. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Daytime hours means the hours from 7:00 a.m. on one day to 7:00 p.m. the same day.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.

Emergency work means any work performed for the purpose of:

- (1) Preventing or alleviating the physical trauma or property damage threatened or caused by an emergency;
- (2) Restoring property to a safe condition following a fire, accident, or natural disaster;
- (3) Protecting persons or property from exposure to danger; or

- (4) Restoring public utilities.

Nighttime hours means the hours between 7:01 p.m. on one day and 6:59 a.m. the following day.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. For example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the police officer need not determine the name of the song, specific words or the artist performing it. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

Property line means, with respect to single-occupancy properties, the line along the ground surface and its vertical extension that separates the real property owned, leased, or occupied by one person from that owned, leased, or occupied by another person. With respect to shared occupancy properties the term shall mean the imaginary line that represents the legal limits of occupancy of any person who owns, leases, or otherwise occupies an apartment, condominium, hotel or motel room, office or any other type of occupancy from that of other occupants.

(Ordinance 1-20-2020, sec. 1.01, adopted 1/-/2020)

§ 8.02.002. Penalty; additional remedies.

- (a) Any person who violates any provision of this article is guilty of an offense and, upon conviction thereof, shall be punished by a fine of not less than \$1.00 nor more than \$500.00. For continuous noise, each hour or portion thereof in which any violation shall occur shall constitute a separate offense. For a noise that lasts less than one minute, each violation shall constitute a separate offense.
- (b) Enforcement hereunder shall not require the pleading or proving of any culpable mental state.
- (c) A violation of this article is a nuisance. The prosecution of an offense under this article does not limit the city's right to abate the nuisance, including the use of injunctive or other civil relief.

(Ordinance 1-20-2020, sec. 1.02, adopted 1/-/2020)

§ 8.02.003. Defenses.

The following defenses shall apply to any offense established in this article, and the same must be specifically pled by anyone charged with a violation:

- (1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime, or was produced pursuant to any safety rule or regulation of any governmental entity or agency.
- (2) The sound was produced by an authorized emergency vehicle.
- (3) The sound was produced by emergency work.
- (4) The sound was generated:

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- (A) Made by a musical instrument at a lawfully scheduled stadium event. A horn from which sound is not produced by the breath of the individual playing such musical instrument is not considered a musical instrument for the purpose of this defense;
 - (B) By a parade and spectators and participants on the parade route during a lawful parade authorized by the city;
 - (C) By spectators and participants at lawfully scheduled amphitheater event;
 - (D) By patrons and participants using cannons and gunfire during a historical battle re-enactment for which a pyrotechnic permit was obtained and the explosives were inspected by the fire marshal;
 - (E) By a pyrotechnic display that was approved by the city; and
 - (F) By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert that was sponsored or co-sponsored by the city.
- (5) The sound was produced by the erection, excavation, construction, or demolition of any building or structure, including the use of any necessary tools or equipment.
 - (6) The sound was produced by aircraft, in flight or in operation at any airport, or railroad equipment in operation on railroad right-of-way.
 - (7) The sound was produced by operating or permitting the operation of any mechanically powered tools, lawn or garden tools, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 9:00 p.m., when the sound is being produced for the maintenance or upkeep of the property on which it was operated.
 - (8) The sound was generated as authorized under the terms of a permit.
 - (9) The sound was produced by church bells or church chimes when used as part of a religious observance or service during daytime hours.
 - (10) The sound was produced during daytime hours by activities conducted on public parks, public playgrounds, and public or private school grounds, including but not limited to Holland Independent School District athletic, band and school entertainment practice or events.
- (Ordinance 1-20-2020, sec. 1.03, adopted 1/-/2020)

§ 8.02.004. General prohibitions.

- (a) It shall be unlawful for any person to make or operate or cause to be made any loud, unnecessary or disturbing noise that annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of neighboring person(s) of ordinary sensibilities. In determining whether a noise is loud, unnecessary, or disturbing, the following factors shall be considered: time of day; proximity to residential properties or areas as defined above; whether the noise is recurrent, intermittent, or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

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- (b) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of person(s) of ordinary sensibilities.
- (c) It shall be unlawful for any person, between the hours of 10:00 p.m. and 7:00 a.m. the following morning, in either a public or private place or house in the city, to create, make or cause to be made upon musical instruments, horns or bugles, or by any other means, any loud noise which unreasonably disturbs others in the vicinity of any such public or private place or house.
- (d) It shall be unlawful for any person to pour a slab, demolish a building, or utilize any commercial or industrial power tools before 7:00 a.m. or after 8:00 p.m. on any day without having notified all persons who would be entitled to notice of a zoning change under the city zoning ordinance as may be amended from time to time in relationship to the property upon which the pouring, demolition or use of tools is to take place at least ten (10) days prior to such activity. Such notice shall be sent in the same manner as set out in the zoning ordinance. No building permit shall be issued in the absence of such notice. This prohibition shall not apply to emergency work or city public works or utility crews.
- (e) It shall be unlawful for any person to operate any gravel pit, rock crusher or other machinery for the separation, gathering, grading, loading or unloading of sand, rock or gravel within 600 feet of any private residence, church or hospital in the city during nighttime hours if the operation of such plant or machinery is attended with loud noise or noises reasonably disturbing to neighboring person(s) of ordinary sensibilities.
- (f) The acts enumerated in the following sections of this article, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.
- (g) This article shall not apply to any public utility or public works.

(Ordinance 1-20-2020, sec. 1.04, adopted 1/-/2020)

§ 8.02.005. Noisy vehicles; idling vehicles.

The use of any motor vehicle so out of repair or so extra loaded that it creates any loud and unreasonable or unusual (that is, not standard equipment for the type vehicle, or which violates state regulations for equipment or emissions), grating, grinding, rattling, or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.

(Ordinance 1-20-2020, sec. 1.05, adopted 1/-/2020)

§ 8.02.006. Amplified sound.

(a) Restrictions.

- (1) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound using any sound amplifier that is part of or connected to any speaker system, radio, stereo

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receiver, compact disc player, cassette tape player, microphone, or any other sound source, when operated:

- (A) In such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants; or
- (B) At any time with louder volume than is necessary for convenient hearing for persons who are in the vehicle or within the property or premises in which such sound amplifier is operated and who are voluntary listeners thereto.

(2) The operation of any such sound amplifier in such a manner as to be plainly audible at a distance of 50 feet or more from a vehicle shall be presumed to be in violation of this section. The operation of any such sound amplifier in such a manner that bass sounds are plainly audible at a distance of 50 feet or more from the property line of a property or premises in which the amplification is located shall be presumed to be in violation of this section.

(b) Defenses. It is an affirmative defense to prosecution under this section that the sound source is a motor vehicle and that:

- (1) The motor vehicle is a mobile sound stage or studio that is being used on a stationary basis at a location not situated upon any street for the purpose of providing sound, during daytime hours, for an event or function; and
- (2) The use is in compliance with all other provisions of this article and any other regulations of the city.

(Ordinance 1-20-2020, sec. 1.06, adopted 1-/2020)

**ARTICLE 8.03
NUISANCES**

Division 1
Generally

§ 8.03.001. Authority.

This article is adopted pursuant to the police powers and authority given general law cities by the constitution, codes and general laws of the State of Texas, including but not limited to chapter 51, Texas Local Government Code, and the Texas Health and Safety Code.

(Ordinance 11-17-03 (ord. 1), art. I, sec. 1, adopted 11/17/2003)

§ 8.03.002. Purpose.

The purpose of this article is to provide for public health and general welfare, the efficient and effective provision of city services and the protection of the environment and natural resources of the community. From and after the passage of this article all occupancies and uses within the city shall conform to the following rules and regulations.

(Ordinance 11-17-03 (ord. 1), art. I, sec. 2, adopted 11/17/2003)

§ 8.03.003. Definitions.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this section; provided that, unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage, and so as to give this article its most reasonable application.

Brush. All uncultivated shrubs, bushes and small trees.

Earth and construction materials. Earth, rocks, bricks, concrete, other similar materials and waste materials resulting from construction or remodeling.

Garbage. Rubbish, trash, kitchen and household waste, ashes, bottles, cans, rags, paper, food, food containers, lawn trimmings, tree trimmings, hedge trimmings, leaves, grass, weeds and refuse, and all decayable wastes, including animal and vegetable matter.

Hazardous waste. Solid or liquid waste, in any amount, which is defined, characterized, identified or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law, or waste, in any amount, which is regulated under federal or state law, including motor oil and radiator, engine crankcase, transmission or differential fluid, gasoline, paint, paint cans, toxic or corrosive materials or any material found harmful to personnel or equipment as determined by the director of public works.

Junk. All worn-out, worthless and discarded material, in general, including, but not limited to, scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, rags, glass, paper, cordage, cloth, rubber, rope, tinfoil, bottles, old cotton, machinery, tools, construction materials, appliances, furniture, fixtures, utensils, boxes or crates, pipe or pipe fittings, automobile or airplane tires, dismantled motor vehicles, boats, boat trailers, boathouses or travel trailers or parts thereof, or other manufactured goods or odds and ends that are worn-out, worthless, deteriorated, obsolete, discarded material or other wastes, especially those that are unusable in their existing condition.

Litter. Any quantity of uncontainerized paper, metal, plastic, glass, or miscellaneous solid waste which may be classed as trash, debris, rubbish, refuse, garbage, or junk not placed in a solid waste container.

Lot. Any tract, block or other parcel of land, or portion thereof, located within the city limits.

Motor vehicle. Every vehicle, car, boat or similar vehicle that is, or was originally, designed to be self-propelled.

Person. Shall mean and include an individual human, partnership, co-partnership, firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

Refuse. See: Garbage.

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Rubbish. All refuse, junk, rejected tin cans, old vessels of all sorts, useless articles, abandoned pipe, waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, combustible waste, pulp and other products used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, textiles and objects of all sorts, and in general all litter. The words “any and all objectionable or unsanitary matters,” not included within the meaning of the other terms as herein used, means those which are liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition to the general locality where the same are situated.

Sewage or wastewater. A combination of waterborne wastes from residences, business buildings, institutions, and commercial and industrial establishments, together with such ground, surface and storm waters as may be present.

Solid waste. Household garbage and refuse and commercial garbage and refuse, brush cuttings and weeds.

Solid waste service. The collection and hauling of residential and business solid waste, e.g., garbage, trash and refuse, for disposal at a state-licensed landfill; and the actions and services directly related thereto or necessary for the provision of such services to consumers or customers in the city.

Structure. As used in this article, means the same thing as it does in the city ordinance adopting the International Building Code.

Trash. See: Garbage.

Unwholesome matter. All stagnant water, filth, carrion, impure matters and any condition liable to produce, harbor or spread disease or germs or cause noxious, foul and offensive odors, including foodstuffs or byproducts thereof of any animal nature, or any fruit, vegetable or other thing which may become tainted, diseased, fermented or decaying or otherwise unwholesome or unclean.

Waste. Rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural, commercial, or industrial activities.

Weeds. All rank and uncultivated vegetable growth or matter which is liable to become an unwholesome or decaying mass or breeding place for flies, mosquitoes, snakes, rats or other vermin.

(Ordinance 11-17-03 (ord. 1), art. I, sec. 4, adopted 11/17/2003)

§ 8.03.004. through § 8.03.030. (Reserved)

Division 2

Littering**§ 8.03.031. Littering by pedestrians and motorists prohibited.**

- (a) It shall be unlawful for any person to throw, discard, place, or deposit litter in any manner or amount on any public or private property within the corporate limits of the city, except in lawfully provided containers.
- (b) In prosecuting the owner of a motor vehicle for violating subsection (a), proof that the litter originated from the particular vehicle described in the complaint, together with proof that the defendant named in the complaint was at the time of such violation the registered owner of said vehicle, shall constitute in evidence a presumption that the registered owner was the person who committed the violation.
- (c) It shall be the duty of every person distributing handbills, leaflets, flyers, or any other advertising and information material to take whatever measures that may be necessary to keep such materials from littering public or private property.
- (d) To facilitate proper disposal of litter by pedestrians and motorists, publicly patronized or used establishments shall provide, regularly empty, and maintain in good condition adequate containers that meet standards prescribed by the city. This requirement shall be applicable, but not limited to, fast food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, and public institutions.

(Ordinance 11-17-03 (ord. 1), art. II, sec. 1, adopted 11/17/2003)

§ 8.03.032. Vehicles transporting loose materials.

- (a) It shall be unlawful for any person, firm, corporation, institution, or organization to transport any loose cargo by truck or other motor vehicle within the corporate limits of the city unless said cargo is covered and secured in such manner as to prevent depositing of litter on public and private property. Agricultural trucks shall be exempt.
- (b) Subsection (a) shall also apply to the owner or operator of the truck or other vehicle.
- (c) In prosecuting a person, firm, corporation, institution, organization, or owner or operator of a truck or other vehicle under subsection (a), proof that the cargo was not adequately covered and secured shall constitute in evidence a presumption of a violation of this section.

(Ordinance 11-17-03 (ord. 1), art. II, sec. 2, adopted 11/17/2003)

§ 8.03.033. Loading and unloading operations.

- (a) Any owner or occupant of an establishment or institution at which litter is attendant to the packing and unpacking and loading and unloading of materials at exterior locations shall provide suitable containers for the disposal and storage of such litter and shall make appropriate arrangements for its collection.

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- (b) Further, it shall be the duty of the owner or occupant under subsection (a) to remove any litter that has not been containerized at the end of each day.

(Ordinance 11-17-03 (ord. 1), art. II, sec. 3, adopted 11/17/2003)

§ 8.03.034. Responsibility to keep property clean.

- (a) The owner, agent, occupant, or lessee of private property shall keep the exterior free of litter. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped at locations such as fence and wall bases, grassy and planted areas, borders, embankments, and other lodging points.
- (b) Owners, agents, occupants, or lessees of private property that faces city sidewalks and strips between streets shall keep such sidewalks and strips free of litter.
- (c) It shall be unlawful for a person under this section to sweep or push litter from sidewalks and strips into streets. Owners, agents, occupants, or lessees of private property must pick up and put sidewalk and strip sweepings into household or commercial solid waste containers.
- (d) Nonresident owners of vacant lots or other vacant property shall appoint a resident agent to keep that lot or other property free of litter.

(Ordinance 11-17-03 (ord. 1), art. II, sec. 4, adopted 11/17/2003)

§ 8.03.035. Dumping refuse or other material.

It shall be unlawful for any person to dump refuse, garbage, rubbish, junk, or any other material, including, but not limited to, cement or any earth or construction materials, on or near city streets, private property, parks, parking lots, commercial or public buildings, or on adjoining highways and rights-of-way; provided, however, the owner or resident of private property may deposit a reasonable amount of refuse or garbage on his or her private [property][??] for soil composting purposes, so long as such is done in a manner that prevents the deposit from being blown by the wind or strewn or scattered by animals.

(Ordinance 11-17-03 (ord. 1), art. II, sec. 5, adopted 11/17/2003)

§ 8.03.036. through § 8.03.060. (Reserved)

Division 3

Repair of Motor Vehicles and Storage of Materials Outdoors

§ 8.03.061. Motor vehicle maintenance on public property, parking lot or vacant lot.

It shall be unlawful to repair, strip, assemble, or perform ordinary maintenance on a motor vehicle on public property, parking lots or any vacant lots within the city limits, except in those situations in which immediate action is necessary because the vehicle is disabled.

(Ordinance 11-17-03 (ord. 1), art. III, sec. 1, adopted 11/17/2003)

§ 8.03.062. Motor vehicle maintenance on private property.

It shall be unlawful to repair, strip, assemble or store a disabled motor vehicle, or parts thereof, on any private property, unless said vehicle is totally enclosed within a structure or behind a six-foot (6') privacy fence where the vehicle is completely screened from the view of the public and is not visible from a public roadway, except in those situations in which immediate action is necessary because a vehicle is disabled and the vehicle remains for no longer than forty-eight (48) consecutive hours. All vehicles under repair must display current license and inspection stickers.

(Ordinance 11-17-03 (ord. 1), art. III, sec. 2, adopted 11/17/2003)

§ 8.03.063. Refrigerators and other airtight containers.

- (a) This section applies to a refrigerator, icebox, or other airtight or semi-airtight container that has:
- (1) A capacity of at least 1-1/2 cubic feet;
 - (2) An opening of at least fifty (50) square inches; and
 - (3) A door or lid equipped with a latch or other fastening device capable of securing the door or lid shut.
- (b) No person shall place a container described in subsection (a) outside of a structure or in a warehouse, storage room, or unoccupied or abandoned structure so that it is accessible to children.
- (c) No person shall permit a container described in subsection (a) to remain outside of a structure or in a warehouse, storage room, or unoccupied or abandoned structure so that it is accessible to children.

(Ordinance 11-17-03 (ord. 1), art. III, sec. 3, adopted 11/17/2003)

§ 8.03.064. Residential solid waste containerization and removal.

- (a) All owners or residents of residential property shall have sufficient container capacity to accommodate their volume of solid waste between collections.
- (b) The placement and removal of any trash container or receptacle in or from the city's right-of-way shall be done within 24 hours of the scheduled trash pickup time. Bulk trash and other large items, including but not limited to furniture, mattresses and televisions, will not be picked up by the trash service provider. Such items shall not be placed in the city right-of-way for trash pickup. Any trash containers or discarded bulk items placed in the city right-of-way will serve as prima facie evidence that such items belong to the abutting property owner, tenant or occupant.
- (c) Owners or residents of residential property shall bundle and securely tie all loose materials which normally fit into containers, but which are excess as a result of special circumstances, such as holidays, so as to repel animals and prevent materials from blowing or scattering, and place such materials beside the containers.

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- (d) Owners or residents of residential property shall keep containers covered at all times.
- (e) The owner or user of any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents or the public generally shall replace the container after receiving written notice of such defects from the city. Failure to do so within five (5) days of such notification shall constitute a violation of this section.
- (f) The owner of containers used for collection shall take necessary precautions so that the contents do not become litter when placing and removing them.
- (g) It shall be unlawful for any resident to deposit household solid waste in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.

(Ordinance 11-17-03 (ord. 1), art. III, sec. 4, adopted 11/17/2003; Ordinance 10-15-12, sec. 2, adopted 10/15/2012)

§ 8.03.065. Commercial solid waste containerization and removal.

- (a) All owners of establishments and institutions which generate solid waste for collection by approved contractors shall obtain adequate containers approved by the city and shall keep said containers in such a manner that they are not visible from adjacent public or private property. Any containers placed in the city right-of-way for trash collection shall be placed and removed within 24 hours of the scheduled trash pickup time. Bulk trash and other large items that do not fit into containers, including but not limited to furniture, mattresses and televisions, will not be picked up by the trash service provider. Such items shall not be placed in the city right-of-way for trash pickup. Any trash containers or discarded bulk items placed in the city right-of-way will serve as prima facie evidence that such items belong to the abutting property owner, tenant or occupant.
- (b) Owners described in subsection (a) shall keep containers covered at all times.
- (c) The owner or user of any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents or the public generally shall replace the container after receiving written notice of such defects from the city. Failure to do so within five (5) days of such notification shall constitute a violation of this section.
- (d) It shall be unlawful for any owner, manager, or employee of a commercial establishment or institution to deposit solid waste from that establishment or institution in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.

(Ordinance 11-17-03 (ord. 1), art. III, sec. 5, adopted 11/17/2003; Ordinance 10-15-12, sec. 3, adopted 10/15/2012)

§ 8.03.066. through § 8.03.090. (Reserved)

Division 4

Nuisances and Offensive Conditions on Private Property**§ 8.03.091. Prohibited conduct.**

It shall be unlawful for an owner, occupant, lessee or renter of any lot or parcel of ground within the city limits (herein cumulatively referred to as “owner” or “occupant”) to:

- (1) Fail to maintain such property:
 - (A) Free of accumulations of brush, earth and construction materials, garbage, litter, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever nature;
 - (B) Free and clear from weeds and tall grass from the line of such property, including the sidewalks, to the established curb line next adjacent thereto;
 - (C) Free of drain holes and depressions in which water collects or to fail to regrade any lots, grounds or yards or any other property owned or controlled by the owner or occupant which shall be unwholesome or have stagnant water thereon, or which from any other cause is in such condition as to be liable to produce disease;
 - (D) Free from filth, carrion or other impure or unwholesome matter of any kind, on any portion of the property under the owner or occupant’s control, including any house, building, establishment, lot, yard or ground owned or occupied, especially any such filth, carrion or other impure or unwholesome matter that exudes any noxious, foul or offensive odor that is detectable past or beyond the boundary of the property upon which the matter is located;
 - (E) Free of discharge of sewage or hazardous wastes into the soil or subsurface soil without proper containment thereto; or
 - (F) In any manner that is inconsistent with this article;
- (2) Suffer, allow or permit any person to bring or transport onto the property any filth, carrion, decaying animal or vegetable matter, or other impure or unwholesome matter of any kind that exudes any noxious, foul or offensive odor that is detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant; or
- (3) Operate or conduct any business or activity on the property in a manner that causes or results in any noxious, foul or offensive odor that originates on the property, or that emanates from any source that such owner or occupant has suffered, allowed or permitted to come onto the property, being detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant.

(Ordinance 11-17-03 (ord. 1), art. IV, sec. 1, adopted 11/17/2003)

§ 8.03.092. Nuisance declared; duty to abate.

Whenever brush, earth or construction materials, garbage, litter, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matter and any other objectionable, unsightly, or unsanitary matter of whatsoever [kind][??] shall exist, covering or partially covering the surface of any lot or parcel of any real estate situated within the city, or when any of said lots or parcels of real estate as aforesaid shall have the surface thereof filled or partly filled with holes or be in such condition that the same holds or is liable to hold stagnant water therein, or if from any other cause shall be in such condition as to cause disease, or produce, harbor or spread disease or germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome or obnoxious, or shall contain unwholesome matter of any kind or description, or any other conduct prohibited hereby occurs upon any lot or parcel in the city, the same is hereby declared to constitute a public nuisance, the prompt abatement of which is hereby declared to be a public necessity. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property.

(Ordinance 11-17-03 (ord. 1), art. IV, sec. 2, adopted 11/17/2003)

§ 8.03.093. Noxious odors declared nuisance.

If the owner or occupant of any lot or parcel of land within the city shall suffer, allow or permit any spoiled, rotting or decaying animal or vegetable matter to be on the property, and such spoiled, rotting or decaying animal or vegetable matter shall cause or result in a noxious, foul or offensive odor being detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant, the same is hereby declared to be and constitute a public nuisance. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property.

(Ordinance 11-17-03 (ord. 1), art. IV, sec. 3, adopted 11/17/2003)

§ 8.03.094. Storage of unwholesome materials.

All garbage, sewage, hazardous wastes and other unwholesome materials of any kind shall be stored in containers to prevent such materials from dispersing beyond the storage location, seepage into the ground, or permitting the escape of noxious, foul or offensive odors into the air across the boundaries of the owner or occupant's property to another property.

(Ordinance 11-17-03 (ord. 1), art. IV, sec. 4, adopted 11/17/2003)

§ 8.03.095. Maintenance of food processing premises.

The entire yard and premises occupied by any butcher shops, meat markets, and food processing or food manufacturing establishments of any animal or vegetable matter shall be well drained, the floors shall be free of sawdust, shavings or other dust-creating or filth-collecting coverings and all back rooms, sheds or yards, or other places connected by any opening with any room shall at all times be kept in a clean and sanitary condition, and free from filth, exposed refuse or garbage, trash and unrefrigerated animal or vegetable scraps. Each room and the floors, walls, ceilings, windows and doors thereof, and all the fixtures, furniture, receptacles, utensils, machinery, implements and other things, excepting receptacles used to hold refuse, in each such room, or used in connection with any such business, shall at

all times be kept free from dirt, adhering foreign matter, unwholesome orders, decaying substances, cobwebs, trash, scraps, etc., and in a clean and sanitary condition. Further, all butcher shops, meat markets, and food processing or food manufacturing establishments shall comply with the following requirements:

- (1) Two (2) adjacent deep vats shall be provided for in all rooms containing the actual butcher shops, meat markets, and food processing or food manufacturing establishments with hot and cold running water under pressure.
- (2) No slaughtered meat, fish, poultry or meat products, and no milk, butter, cheese or dairy products, shall be left open or exposed to contamination by dust, air, insects or other extraneous matter, either within or without any such room or place of business, and all fresh or uncooked meat, fish, poultry and all milk and butter shall be immediately placed and kept in a refrigerator, or icebox or cold-storage room, except when removed therefrom for the immediate purposes and operation of the business. Meats and fish shall not be kept in the same compartment with milk and butter.
- (3) Each refrigeration, icebox or cold-storage room shall be well constructed, tight and secure, and shall be kept reasonably dry on the inside and free from foul odors, mold and slime, and shall be kept in a clean and sanitary condition.
- (4) All readily perishable products shall be kept at fifty (50) degrees Fahrenheit or below, including offal, bones and other waste products while on the property. All liquid wastes from such refrigeration equipment shall be connected to a public sewer in an approved manner.
- (5) No refuse or tainted or decaying meat, fish or other substance shall be allowed to remain in any refrigerator, icebox or cold-storage compartment, unless such refrigerator, icebox or cold-storage compartment is designated and maintained exclusively for such purpose. Offal, bones or other garbage or discarded organic matter, animal or vegetable, or slops or refuse of any character whatsoever shall not be left exposed to the atmosphere of any room, but shall immediately be deposited and kept in a closed container which shall be emptied and cleaned at least once each day. All refuse and tainted or decaying meat, fish, poultry, cheese or other organic matter, whether animal or vegetable, shall be stored and removed from the property in a manner to prevent any foul, noxious or offensive odor from being detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant.
- (6) Each room shall be kept free from flies, rats, roaches and other insects and vermin.
- (7) No animals or fowl shall be kept or allowed to be kept in the same room as any food processing or manufacturing.

(Ordinance 11-17-03 (ord. 1), art. IV, sec. 5, adopted 11/17/2003)

§ 8.03.096. Waste transportation.

All vehicles, wagons, carts, transports and conveyances used for delivering, collecting or transporting, through the city, any offal, bones, or other garbage or discarded organic matter, animal or vegetable matter, or slops or refuse of any character in any amount of greater than

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forty-five pounds (435 lbs.)[??] shall keep, maintain, haul and transport the waste in an enclosed storage container that is well constructed, tight and secure, to prevent the escape of any such matter and to prevent any noxious, foul or offensive smells from escaping the confines of such storage container within the city limits.

(Ordinance 11-17-03 (ord. 1), art. IV, sec. 6, adopted 11/17/2003)

§ 8.03.097. Limitation on height of grass and weeds.

It shall be unlawful for any person who shall own or occupy any lot or lots in the city limits to allow weeds and/or grass to grow on such lot or lots to a height of more than twelve (12) inches. Weeds and/or grass of a height exceeding twelve (12) inches are declared a nuisance. Provided, however, this section shall not apply to property used for the growing of agricultural crops or grass if such property has not been platted into lots.

(Ordinance 11-17-03 (ord. 1), art. IV, sec. 7, adopted 11/17/2003)

§ 8.03.098. Discharge of sewage or hazardous wastes prohibited.

Any person or persons who shall allow or permit sewage or hazardous wastes to discharge into the ground or subsurface soil, which shall have the effect of causing odors or obnoxious, unhealthy and unwholesome conditions to exist, is declared to have caused a public nuisance and shall be in violation of this article.

(Ordinance 11-17-03 (ord. 1), art. IV, sec. 8, adopted 11/17/2003)

§ 8.03.099. Presumption of responsibility for discharge of sewage or hazardous wastes.

In any prosecution charging a violation of this article governing the discharge of sewage or toxic wastes, proof that the particular sewage or toxic waste described in the complaint was discharged into the ground or subsurface soil in violation of section 8.03.096 [8.03.098][??] above, together with proof that the defendant named in the complaint was, at the time of such discharge, the registered owner or occupant of such lot or lots, shall constitute in evidence a prima facie presumption that the registered owner or occupant of such lot or lots was the person who discharged such sewage or toxic wastes when such violation occurred.

(Ordinance 11-17-03 (ord. 1), art. IV, sec. 9, adopted 11/17/2003)

§ 8.03.100. through § 8.03.130. (Reserved)

Division 5

Abatement, Enforcement and Penalties

§ 8.03.131. Immediate abatement of dangerous conditions.

Whenever an immediate danger to the health, life or safety of any person exists as a result of garbage, rubbish, junk, trash, unwholesome matter, sewage or toxic waste discharge, storage of airtight containers in an unsafe location, or weeds which have grown to a height, at any point on the property, of greater than 36 inches, the city may abate the nuisance without

notice to the owner. In the event the city abates the nuisance under this section, the city shall forward notice to the owner within seven (7) days in the manner set forth in section 8.03.133. (Ordinance 11-17-03 (ord. 1), art. V, sec. 1, adopted 11/17/2003)

§ 8.03.132. Right to inspect.

The code enforcement officer or designee is authorized to inspect any property within the corporate limits of the city, at any reasonable time, subject, however, to the requirements for obtaining the permission of the occupant, or obtaining a warrant for the entry and inspection of private residences.

(Ordinance 11-17-03 (ord. 1), art. V, sec. 2, adopted 11/17/2003)

§ 8.03.133. Violations and notices; abatement procedures.

- (a) If an officer charged with the enforcement of this article shall determine that a person has violated any provision of this article, such officer may issue a citation.
- (b) If an officer charged with the enforcement of this article shall determine that a situation exists which immediately affects or threatens the health, safety and well-being of the general public, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner and/or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.
- (c) If an officer charged with enforcement of this article determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the city council may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare. In such event, the city may prosecute an action in any court of competent jurisdiction to recover its costs.
- (d) If any owner or occupant shall fail or refuse to remedy any of the conditions prohibited by this article within thirty (30) days after notice to do so, the city may do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made to the owner(s) of the property, and such charge shall be a personal liability of such owner to the city.
- (e) Notices required pursuant to this article shall be in writing. Such notices may be served upon such owner and/or occupant as follows: in person by an officer or employee of the city; by letter addressed to such owner or occupant at his/her post office address; or, if personal service may not be had, or the owner or occupant's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city or by posting a notice on or near the front door of each building on the property upon which the violation relates, or, if no building exists, by posting notice on a placard attached to a stake driven into the ground on the property to which the violation relates. The notice shall state "Sanitary Improvements",

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“To Whom It May Concern” and a brief statement of the violation(s). Service of the notice by any one of the above methods, or by a combination thereof, shall be deemed sufficient notice.

- (f) If an owner is mailed a notice in accordance with subsection (e) and the United States Postal Service returns the notice as “refused” or “unclaimed” the validity of the notice is not affected, and the notice is considered as delivered.
- (g) Notices provided by mail or by posting as set forth in subsection (e) may provide for year-round abatement of the nuisance and inform the owner that, should the owner commit any other violation of the same kind that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may abate the violation at the owner’s expense and assess the costs against the property.
- (h) Persons littering in violation of division 2 of this article or causing or creating a prohibited nuisance in the presence of a person authorized to enforce this article may be cited or a complaint filed for such violation without notice of the violation, or warning, and such citation or complaint shall be filed in the municipal court of the city.

(Ordinance 11-17-03 (ord. 1), art. V, sec. 3, adopted 11/17/2003)

§ 8.03.134. Abatement by city; costs charged on utility bill; appeals.

In addition to any other remedy provided in this article and cumulative thereto, the code enforcement officer, after giving to the owner of the property thirty (30) days’ notice in writing, as provided in section 8.03.133, may cause any of the work or improvements mentioned in this article to be done at the expense of the city, and charge the utility bill of the property on which such work or improvements are done, and cause all of the actual cost to the city to be assessed on the real estate or lot on which such expenses occurred; provided that the owner of any such real estate may appeal to the city council from the order of the code enforcement officer by filing a written statement with the code enforcement officer within thirty (30) days after receipt of the notice provided for above, stating that such real estate complied with the provisions of this article before the expiration of a thirty (30) day period. The city council shall set a date, within thirty (30) days from the date of the appeal, for hearing the appeal to determine whether the real estate complied with the provisions of this article before the expiration of such thirty (30) day period. The authority of the code enforcement officer to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending. If it shall be determined by the city council that the premises complied with the provisions of this article before the expiration of the thirty (30) day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such work was done.

(Ordinance 11-17-03 (ord. 1), art. V, sec. 4, adopted 11/17/2003)

§ 8.03.135. Payment of cost of abatement; lien.

Cumulative of the city’s remedy by fine, as set forth herein, the city may do such work or cause the same to be done to remedy such condition to remove such matter from such

owner's premises at the city's expense and charge the same to the utility bill of such property and assess the same against the real estate or lot or lots upon which such expense is incurred.

- (1) Expenditures plus ten (10) percent per annum interest on the expenditures from the date of such payment by the city shall be added to the next billing cycle for utility bills for the real estate or lot or lots, if not already paid. Payment shall be due and payable in full by the owner or occupant at the time of payment of such utility bill. If the property is unoccupied, no utilities shall be furnished to the property where the work occurred until such obligation, as herein set out, payable to the city for abatement of any nuisance described herein is paid in full.
- (2) Upon filing with the county clerk of Bell County of a statement by the city secretary or designee of such expenses, the city shall have a privileged lien upon said real estate or lot or lots, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten (10) percent per annum interest on the amount from the date of such payment so made by the city.
- (3) The city may, additionally, institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter.

(Ordinance 11-17-03 (ord. 1), art. V, sec. 5, adopted 11/17/2003)

§ 8.03.136. Enforcement.

The civil and criminal provisions of this article shall be enforced by the persons or agencies designated by the city, including, but not limited to, the Bell County sheriff's department, the city police department, the building official, and the code enforcement officer. It shall be a violation of this article to interfere with a code enforcement officer, or other person authorized to enforce this article, in the performance of his or her duties.

(Ordinance 11-17-03 (ord. 1), art. V, sec. 6, adopted 11/17/2003)

§ 8.03.137. Penalty.

Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(Ordinance 11-17-03 (ord. 1), art. V, sec. 7, adopted 11/17/2003)

§ 8.03.138. Additional remedies.

All remedies cited herein are in addition to and not in lieu of all remedies permitted to the city by law.

(Ordinance 11-17-03 (ord. 1), art. V, sec. 8, adopted 11/17/2003)

ARTICLE 8.04
ABANDONED OR JUNKED VEHICLES

Division 1

Generally

§ 8.04.001. State law applicable.

Texas Transportation Code chapter 683, as amended, is adopted by reference and the provisions of said chapter shall control and take precedence over any conflicting provisions of this article.

(Ordinance 01-14-02 (ord. 2), sec. 172.001, adopted 1/14/2002)

§ 8.04.002. Definitions.

As used in this article, the following terms shall have the meaning indicated below:

Abandoned motor vehicle means a vehicle that:

- (1) Is inoperative and over five years old and is left unattended on public property for more than 48 hours; or
- (2) Has remained illegally on public property for a period of more than 48 hours; or
- (3) Has remained on private property without the consent of the owner or person in control of the property for more than 48 hours; or
- (4) Has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours.

Antique auto means a passenger car or truck that is at least 25 years old.

Collector means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

Demolisher means a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Garagekeeper means an owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.

Junked vehicle means any vehicle that is designed to be self-propelled, and:

- (1) Does not have lawfully affixed to it:
 - (A) An unexpired license plate; or
 - (B) A valid motor vehicle safety inspection certificate; and
- (2) Is wrecked, dismantled, partially dismantled or discarded; or
- (3) That is inoperable and has remained inoperable for more than:

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- (A) 72 consecutive hours, if on public property; or
- (B) 30 consecutive days, if on private property.

Motor vehicle means any motor vehicle subject to registration pursuant to the Certificate of Title Act, chapter 501, Texas Transportation Code.

Motor vehicle collector means a person owning one or more antique or special interest vehicles and who acquires, collects, or disposes of any antique or special interest vehicle or part of any antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Outboard motor means an outboard motor subject to registration under chapter 31, Parks and Wildlife Code.

Police department means the city police department and any other law enforcement agency as defined in section 683.001, Texas Transportation Code.

Special interest vehicle means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

Storage facility means a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

Watercraft means a vessel subject to registration under chapter 31, Texas Parks and Wildlife Code.

(Ordinance 01-14-02 (ord. 2), sec. 172.002, adopted 1/14/2002)

§ 8.04.003. Enforcement.

The administration of this article shall be the responsibility of the police department or such department, officer or employee of the city designated by the city council; provided that the chief of police, or such other salaried, full-time employee of the city as designated by the city administrator, is authorized to administer and supervise the procedures, sections and provisions of this article applying to abandoned and junked vehicles. Whoever is so authorized may enter upon private property for the purposes specified in this article to examine motor vehicles or parts thereof, to obtain information as to the identity of motor vehicles and to remove or cause the removal of a motor vehicle or parts thereof declared to be a nuisance pursuant to this article. Upon request by the officer designated pursuant to this section, the municipal court may issue orders necessary to the enforcement of this article.

(Ordinance 01-14-02 (ord. 2), sec. 172.003, adopted 1/14/2002)

§ 8.04.004. Effect on other laws.

Nothing in this article shall affect statutes that permit immediate removal of vehicles left on public property that obstruct traffic or otherwise create a imminent threat to health and safety.

(Ordinance 01-14-02 (ord. 2), sec. 172.004, adopted 1/14/2002)

§ 8.04.005. Storage fees.

The police department shall be entitled to charge and collect reasonable storage fees for abandoned and junked vehicles removed and stored pursuant to this article. Such fees shall be established by the city council and, absent the city council having established such fees, the police department. Such fees may be charged beginning the day the vehicle is taken into custody as follows: (i) for a period of up to ten (10) days prior to the date of the mailing of written notice pursuant to this article; and (ii) beginning on the day after written notice is mailed until the vehicle is reclaimed or disposed of pursuant to this article. If any such vehicle is stored with a garagekeeper, the police department shall not charge an additional fee for any day that the garagekeeper charges a fee.

(Ordinance 01-14-02 (ord. 2), sec. 172.005, adopted 1/14/2002)

§ 8.04.006. Penalty.

Any person convicted of violating any provision of this article shall be guilty of a misdemeanor and shall be subject to a fine in an amount not to exceed two hundred dollars (\$200.00) and each day of such violation shall be a separate violation.

(Ordinance 01-14-02 (ord. 2), sec. 172.006, adopted 1/14/2002)

§ 8.04.007. through § 8.04.030. (Reserved)

Division 2

Abandoned Vehicles**§ 8.04.031. Authority to take possession.**

The police department is authorized to take into custody any abandoned motor vehicle, watercraft or outboard motor found on public or private property. The police department may use personnel, equipment and facilities of the police department or other personnel, equipment, and facilities provided by contract with the city to remove, preserve, and store an abandoned motor vehicle, watercraft, or outboard motor taken into custody of the police department.

(Ordinance 01-14-02 (ord. 2), sec. 172.010, adopted 1/14/2002)

§ 8.04.032. Notice of impoundment.

(a) When information exists sufficient to permit notice of impoundment of abandoned motor vehicles, watercraft, or outboard motors to the owner and lienholder, notice shall be given by mail to the registered owner and lienholder as follows:

- (1) The police department shall send notice of abandonment to each registered owner and lienholder showing of record pursuant to the Certificate of Title Act, chapter 501, Texas Transportation Code, or, as applicable, chapter 31, Parks and Wildlife Code.

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- (2) Such notice shall be given within ten (10) days after the date the motor vehicle, watercraft or outboard motor is taken into custody, or the date the police department receives a report of abandonment.
 - (3) The notice shall be by certified mail, return receipt requested, specifying the year, make, model and identification number of the item, set forth the location of the facility where the item is being held, and inform the owner and any lienholder of the right to reclaim the item not later than the 20th day after the date of the notice, on payment of all towing, preservation, storage and/or garagekeeper charges.
 - (4) The notice shall state that the failure of the owner or lienholder(s) to exercise the right to reclaim the item within the time provided shall be deemed a waiver of all right, title, and interest in the item and their consent to the sale of the item at a public auction.
- (b) If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in a newspaper of general circulation in the city shall be made within ten (10) days from the date the item was taken into custody, or from the date the report of abandonment was received. The published notice shall be sufficient if it contains the information otherwise required to be included in the notice by mail. A list of motor vehicles, watercraft or outboard motors may be included in the same publication.

(Ordinance 01-14-02 (ord. 2), sec. 172.011, adopted 1/14/2002)

§ 8.04.033. Use of abandoned vehicles for police department purposes.

- (a) Provided that a garagekeeper's lien has not attached to the vehicle, if an abandoned motor vehicle has not been reclaimed as provided in section 8.04.032 hereof, the police department may use such abandoned motor vehicle for police department purposes if such use is cost-effective.
- (b) If the police department discontinues use of the abandoned motor vehicle, the police department shall auction such abandoned motor vehicle as provided herein.

(Ordinance 01-14-02 (ord. 2), sec. 172.012, adopted 1/14/2002)

§ 8.04.034. Auction sales; disposition of proceeds generally.

- (a) If an abandoned motor vehicle, watercraft or outboard motor has not been reclaimed within twenty (20) days after the date of notice and payment of all towing, preservation and storage charges resulting from its impoundment, the police department shall sell the item at a public auction. Proper notice of the public auction shall be given and, in the event a vehicle is to be sold in satisfaction of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of such auction.
- (b) The police department shall furnish a sales receipt for each vehicle to the purchaser thereof at the public auction.

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- (c) The proceeds shall be applied first to reimburse the police department for the expenses of the auction, costs of towing, preserving and storing the vehicle, and all notice and publication costs, and any remainder from the proceeds of the sale shall be held for the owner of the vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in a special fund with the city treasurer which shall remain available for the payment of auction, towing, preserving, storage and all notice and publication costs which result from placing other abandoned vehicles in custody, whenever the proceeds from a sale of such other abandoned motor vehicles are insufficient to meet these expenses and costs. In the event the special fund on deposit with the city treasurer accumulates to an excess of \$1,000.00, the city council may transfer the balance of such fund, that exceeds \$1,000.00, to the general fund for use by the police department as budgeted.

(Ordinance 01-14-02 (ord. 2), sec. 172.013, adopted 1/14/2002)

§ 8.04.035. Vehicle abandoned at storage facility.

- (a) The police department, upon receipt of a report from a garagekeeper that a motor vehicle has been deemed abandoned pursuant to section 683.031, Texas Transportation Code, shall follow the notification procedures set forth in section 8.04.032 herein for the giving of notice to owners and lienholders of abandoned vehicles, except that custody of the vehicle shall remain with the garagekeeper until after the notification requirements have been satisfied.
- (b) A fee as set forth in the fee schedule in appendix A of this code shall accompany the report of the garagekeeper and such fee shall be retained by the police department receiving the report and used to defray the cost of notification or other costs incurred in the disposition of such vehicles, and such fee shall be deposited in the general fund of the city.
- (c) Abandoned vehicles left in storage facilities, which are not reclaimed after notice is given in accordance with this division, shall be taken into custody by the police department and sold at auction, as in the cases of other abandoned motor vehicles. The proceeds of the sale shall first be applied to the garagekeeper's charges for servicing, repair, and storage, provided the garagekeeper properly notified the police department within seven days of the abandonment; however, the police department shall retain an amount of two percent (2%) of the gross proceeds of the sale for each vehicle auctioned, but in no event shall it retain less than ten dollars (\$10.00), to be used to defray expenses of custody, auction, and storage fees accrued according to section 8.04.005.
- (d) The police department shall not take custody of a motor vehicle, watercraft, or outboard motor more than thirty-one days after the notices are sent according to section 8.04.032. After the thirty-first day, the storage facility having custody of the abandoned vehicle shall dispose of the vehicle pursuant to the requirements of chapter 70, Property Code.

(Ordinance 01-14-02 (ord. 2), sec. 172.014, adopted 1/14/2002; Ordinance adopting Code)

§ 8.04.036. Disposal of abandoned vehicle to demolisher.

The police department is authorized to apply to the state department of transportation for authority to sell, give away or dispose of any abandoned motor vehicle in its possession to a demolisher in accordance with the provisions of chapter 683, Texas Transportation Code.

(Ordinance 01-14-02 (ord. 2), sec. 172.015, adopted 1/14/2002)

§ 8.04.037. through § 8.04.060. (Reserved)

Division 3
Junked Vehicles

§ 8.04.061. Declaration of public nuisance.

Section 683.072, Texas Transportation Code, declares that junked vehicles, that are located in any place where they are readily visible from a public place or public right-of-way, are detrimental to the safety and welfare of the general public, reduce the value of private property, invite vandalism, create fire hazards, constitute an attractive nuisance creating a hazard to the health and safety of minors, and produce urban blight adverse to the maintenance and continuing development of the city, and are a public nuisance. The city council hereby adopts such findings and declarations, and declares that junked vehicles are a public nuisance.

(Ordinance 01-14-02 (ord. 2), sec. 172.020, adopted 1/14/2002)

§ 8.04.062. Maintaining public nuisance.

It shall be unlawful for any person to maintain a public nuisance, as defined in section 8.04.061 above, within the city. Any person found guilty of maintaining a public nuisance as defined in section 8.04.061 shall be guilty of a misdemeanor and be subject to a fine not to exceed two hundred dollars (\$200.00) for each offense and, upon the municipal court finding any person guilty of maintaining a public nuisance as defined in section 8.04.061, the court shall order removal and abatement of the nuisance.

(Ordinance 01-14-02 (ord. 2), sec. 172.021, adopted 1/14/2002)

§ 8.04.063. Procedures for abatement of public nuisance.

The police department or the code enforcement officer, when desiring to remove and dispose of junked vehicles from private property, public property or public rights-of-way, shall comply with the following procedures:

- (1) A written notice stating the nature of the public nuisance on private property and that it must be removed and abated within ten (10) days of the date the letter was mailed, and further stating that any request for a hearing must be made before the expiration of said ten (10) day period, shall be mailed, by certified mail with a five (5) day return receipt requested or personal delivery, to the last known registered owner of the junked vehicle, any lienholder of record and the owner or the occupant of the private premises whereupon such public nuisance exists. If the notice is returned undelivered by the

United States Postal Service, official action to abate such nuisance shall be continued to a date not less than ten (10) days from the date of such return.

- (2) The requirements of subsection (1) above shall also apply to the case of a public nuisance on public property and similar notice shall be sent to the owner or the occupant of the public premises and to the owner or the occupant of the premises adjacent to the public property whereupon such public nuisance exists.
- (3) If sufficient information is not available to determine the registered owner of the nuisance, after reasonable effort to locate the owner, notice may be placed on the nuisance.
- (4) Once a vehicle has been removed under the provisions of this division, it shall not be reconstructed or made operable.
- (5) If the vehicle is not removed or otherwise brought into compliance, a public hearing will be held after the expiration of ten (10) days or more after mailing or personal delivery of notice to abate the nuisance. A hearing will be held prior to the removal of the vehicle or part thereof as a public nuisance, before the chief of police. Should the chief of police find that such vehicle is a public nuisance as defined herein, he/she shall enter an order requiring the removal of the vehicle or part thereof from the public or private property or public right-of-way where it is situated, and such order shall include a description of the vehicle, identification number, and license number of the vehicle, if available. Any aggrieved city officer, owner or lienholder may appeal any such decision of the chief of police to the city council.
- (6) The police department shall give notice to the state department of transportation within five (5) days after the date of the removal of a junked vehicle by the department, identifying the vehicle or part thereof.
- (7) The administration of the procedures of this section shall be carried out by regularly salaried, full-time employees of the city, except that the removal of vehicles or parts thereof from property may be accomplished by any other duly authorized person, including authorized wrecker service operators acting at the direction of the city.
- (8) If the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided, in addition to any other procedure authorized by this article, a complaint may also be filed in municipal court for the violation of maintaining a public nuisance; provided that such notice shall not be a requirement for any such complaint being filed in municipal court.

(Ordinance 01-14-02 (ord. 2), sec. 172.022, adopted 1/14/2002)

§ 8.04.064. Exceptions.

The procedures set out in this division shall not apply to a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard, or an antique and special interest vehicle stored by a collector on his property; provided that the vehicle and outdoor storage areas are maintained in such a manner

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that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.

(Ordinance 01-14-02 (ord. 2), sec. 172.023, adopted 1/14/2002)

§ 8.04.065. Disposal of junked vehicle; moving vehicle to other location.

Junked vehicles or parts thereof may be disposed of by removal to a scrap yard, demolisher or any to suitable site operated by a city or county for processing as scrap or salvage. Relocation of a junked vehicle, for which a notice has been issued under or the procedures provided in this article have been otherwise initiated, to another location shall have no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

(Ordinance 01-14-02 (ord. 2), sec. 172.024, adopted 1/14/2002)

Chapter 9

PLANNING AND DEVELOPMENT REGULATIONS

**ARTICLE 9.01
GENERAL PROVISIONS**

- § 9.01.001. Comprehensive land development plan adopted.
- § 9.01.002. Zoning map adopted.
- § 9.01.003. Annexation plan adopted.

**ARTICLE 9.02
SUBDIVISIONS**

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Generally**

- § 9.02.001. Definitions.
- § 9.02.002. Purpose.
- § 9.02.003. Authority.
- § 9.02.004. Jurisdiction.
- § 9.02.005. Policy.
- § 9.02.006. Application.
- § 9.02.007. Exemptions.
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- § 9.02.009. through § 9.02.030. (Reserved)

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- § 9.02.031. Review and approval procedures.
- § 9.02.032. Requests for extension of approval deadline or waivers of procedures.
- § 9.02.033. Conditions for issuing building permit, issuing site development permit, or accepting improvements.
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- § 9.02.036. Concept plan.
- § 9.02.037. Preliminary plat.
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- § 9.02.039. Final plat.
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- § 9.02.042. Vacation of undeveloped subdivision.
- § 9.02.043. through § 9.02.070. (Reserved)

**Division 3
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- § 9.02.071. Generally.
- § 9.02.072. Drainage improvements.
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- § 9.02.077. Easements.
- § 9.02.078. Landscaping and screening.
- § 9.02.079. Park land dedication.
- § 9.02.080. through § 9.02.110. (Reserved)

**Division 4
Improvements**

- § 9.02.111. Improvements.
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- § 9.02.142. Variances.
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- § 9.02.149. Severability.
- § 9.02.150. Inclusion in Code of Ordinances.
- § 9.02.151. Effective date.
- § 9.02.152. Open meetings.

ARTICLE 9.03
ZONING

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- § 9.03.001. Authority.
- § 9.03.002. Title.
- § 9.03.003. General purpose and intent.
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(Reserved)

Division 2
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- § 9.03.031. General requirements and limitations.

- § 9.03.032. Establishment of zoning districts.
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- § 9.03.037. Single-Family Residential 2 - District R-2.
- § 9.03.038. Multi-Family Residential - District R-3.
- § 9.03.039. Open Space - District OS.
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- § 9.03.071. Construction plans.
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- § 9.03.076. Sexually oriented businesses.
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(Reserved)

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| § 9.01.001 | PLANNING AND DEVELOPMENT REGULATIONS | § 9.01.002 |
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| § 9.03.120. through § 9.03.150. | (Reserved) | § 9.03.156. Penalty. |

**ARTICLE 9.01
GENERAL PROVISIONS**

§ 9.01.001. Comprehensive land development plan adopted.

The planning and zoning commission and the city council having taken inventory of the current existing uses within the city, as represented on the map of current uses attached to Ordinance 12-17-01 (ord. 1) as exhibit “A”, and having held public hearings, finds planning for the city’s future to require development of properties within the city limits to be consistent with adjacent and adjoining uses is important to the health, safety, morals and welfare of the city. The planning and zoning commission has prepared and recommended a comprehensive land development plan. The comprehensive land development plan attached to Ordinance 12-17-01 (ord. 1) as exhibit “B” is hereby adopted and approved. From time to time, the city council may amend the plan to change the classification of property as provided by the city’s comprehensive land development ordinance and add or remove properties from the plan. The plan shall be kept in the office of the city secretary and shall be available for public inspection during normal office hours.

(Ordinance 12-17-01 (ord. 1) adopted 12/17/2001)

§ 9.01.002. Zoning map adopted.

- (a) Official map. The map attached to Ordinance 12-17-01 (ord. 3), marked and labeled “City of Holland, Texas, Zoning Map,” is hereby adopted as the official zoning map of the city. The official zoning map shall be maintained in the office of the city secretary. The map may be amended and corrected from time to time by the city council. The zoning districts and boundaries indicated upon said map are hereby declared to be the official zoning districts and zoning boundaries for the city. All properties shown on the official zoning map as within a zoning category are hereby declared to be within the zoning district and zoned accordingly to comply with the requirements of the zoning ordinance of the city. The city secretary shall keep the official zoning map among the permanent records of the city available for inspection and review during regular business hours.

(b) Zoning changes. All zoning changes after the effective date of this section shall be reflected on the official zoning map upon completion of the zoning amendment. The official zoning map shall be annotated to indicate:

- (1) The date of the zoning change;
- (2) The number of the ordinance or resolution, if any, by which the change was made; and
- (3) A reference to the minutes or ordinance records or resolution records in which the ordinance or resolution is recorded in full.

(Ordinance 12-17-01 (ord. 3) adopted 12/17/2001)

§ 9.01.003. Annexation plan adopted.

(a) Adoption. The annexation plan attached to Ordinance 10-11-99 as exhibit “A” is hereby adopted and approved. From time to time the city council may amend the plan to add or remove properties from the plan. The plan shall consist of all properties to be annexed under Texas Local Government Code section 43.052 that are not exempt from the plan.

(b) Annexations exempt from plan. All annexations by petition or under authority conferred to the city pursuant to the Texas Local Government Code that fall within one of the following categories shall not be placed on the annexation plan. Land areas that:

- (1) Contain fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract;
- (2) Will be annexed by petition of more than 50 percent of the real property owners in the area proposed for annexation or by vote or petition of the qualified voter or real property owners;
- (3) Were the subject of:
 - (A) An industrial district contract under section 42.044, Texas Local Government Code; or
 - (B) A strategic partnership agreement under section 43.0751, Texas Local Government Code;
- (4) Are located in a colonia;
- (5) Are annexed under specific annexation grants in the Texas Local Government Code, such areas being:
 - (A) Owned by the city;
 - (B) A navigable stream adjacent to and within the ETJ of the city; or
 - (C) Authorized to be annexed pursuant to section 43.029 or 43.031, Texas Local Government Code;
- (6) Are located completely within the boundaries of a closed military installation; or

- (7) The municipality determines are necessary to be annexed to protect the city or an area proposed for annexation from:
 - (A) Imminent destruction of property or injury to persons; or
 - (B) A condition or use that constitutes a public or private nuisance as defined by background principles of nuisance and property law of this state.

(Ordinance 10-11-99 adopted 10/11/1999)

**ARTICLE 9.02
SUBDIVISIONS¹**

Division 1
Generally

§ 9.02.001. Definitions.²

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. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word “shall” is always mandatory. The word “herein” means in this article. The word “regulations” means the provisions of any applicable ordinance, rule, regulation or policy. The word “person” means any human being or legal entity and includes a corporation, a partnership, and an incorporated or unincorporated association. The words “used or occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

Access means a way of approaching or entering a property.

Adjacent means abutting and directly connected to or bordering.

Alley means a minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Applicant means a person applying for plan or plat approval under this article.

Application refers to an application for a plan or plat approval under this article, which includes the plan or plat package, and unless the context dictates otherwise, will include the resubmittal application for a plan or plat.

Approval means the final approval in a series of required actions. For instance, the approval date of a plat requiring approval of the commission and then the council is the date of council approval.

1. Editor’s note—This article consists of the subdivision ordinance, Ordinance 4-12-3 (ord. 99) adopted April 12, 1999, as amended. Section and subsection 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 article. The words “City of Holland” have been changed to “city”. Changes in the names of state agencies have been incorporated without notation.

2. Editor's note: In regard to the incorporation of Ordinance 09-16-19, see also the editor’s note at § 9.02.031.

Arterial street means a street designed to provide a connection between major arterial streets.

Block means a parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad right-of-way, public walks, parks or green strips, rural land, drainage channels, or a combination thereof.

Bond means any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the city council.

Buffer means a barrier constructed of wood, masonry, vegetation, and/or other landscape material in such a manner that adjacent uses will be separated to such a degree that objectionable noise, heat, glare, visual clutter, dust, loss of privacy, air circulation, and other negative externalities shall be abated.

Building or setback line means a line or lines designating the interior limit of the area of a lot within which structures may be erected. The building lines generally provide the boundaries of the buildable area of any given lot and no structure or building may be erected between a building and the corresponding lot line.

Building permit means a permit issued by the city which is required prior to commencing construction or reconstruction of any structure.

Centerline, when referring to a waterway or drainage, means the centerline of the waterway and refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by (first) the low flow line, or (second) the center of the two (2) year floodplain.

City means the City of Holland, Texas.

City administrator means the chief administrative officer of the city or his/her designated representative.

City council or council means the Holland city council.

City engineer means the city engineer for the city or his/her designated representative.

City limits means within the incorporated boundaries of the city.

City staff means the city engineer, planning director, or other consultant or staff person designated by the city manager/city administrator to review and approve construction plans.

City standard details and specifications means a library of city-approved drawings and technical data representing typical drainage, transportation, erosion and sedimentation control, and utility appurtenances to be constructed for city acceptance.

Collector street means a street that collects traffic from local streets and serves as the most direct route to a major or minor arterial street.

Commission means the planning and zoning commission of the city, or the city council if a planning and zoning commission is not operational.

Concept plan means a generalized plan that meets the requirements of this article and that indicates the boundaries of a tract or tracts under common ownership, identifies the purpose of the proposed development and the proposed land use, general lot or parcel layout, community use or public areas, and street alignments.

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Construction plans means the maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as part of a development.

Contiguous means adjacent property whose property lines are shared or are separated by only a street, alley, easement or right-of-way.

Corner lot means a lot located at the intersection of and abutting on two (2) or more streets.

County means Bell County, Texas.

County appraisal district means the Bell County Appraisal District.

Crossfall means the transverse slope as related to a given longitudinal slope and measured by the rise-to-run ratio.

Crosswalk means a strip of land dedicated for public use and which is reserved across a lot or block for the purpose of providing pedestrian access to adjacent areas.

Cul-de-sac means a minor street having one (1) end open to vehicular traffic and having one (1) closed end terminated by a permanent turnaround.

Dedication means the grant of an interest in property for public use.

Design storm means a probable rainfall event the frequency of which is specified in periods of years and which is used to design drainage facilities and determine flood elevations.

Developed area means that portion of a lot, easement, or parcel upon which a building, structure, pavement or other improvements have been placed.

Developer means the legal owner of land to be improved and/or subdivided or his/her authorized representative.

Development means a subdivision of land as defined herein or the construction or placement of any buildings, utilities, access, roads or other structures, excavation, mining, dredging, grading, filling, clearing or removing vegetation, and the deposit of refuse, waste or fill. Lawn and yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming shall not constitute development. Utility, drainage, and street repair, and any construction maintenance and installation which does not require land disturbance or result in additional impervious cover shall also not constitute development.

Development plan means a scaled drawing representing an area of land to be improved/developed and indicating the legal boundary of said property and the nature and extent of all existing and proposed improvements to said project.

Double frontage lot means a lot which runs through a block from street to street and which abuts two (2) or more streets.

Drainageway. See: Waterway.

Drainfield means a private sewage facility, disposal area, trench or bed utilized for final wastewater disposal.

Drive approach means a paved surface connecting the street to a front lot line.

Driveway means the surface connecting a drive approach with a parking space, parking lot, loading dock or garage.

Dwelling unit means a residential unit designed to accommodate one (1) household.

Easement means a grant by the property owner of the use of a strip of land for stated purposes.

Environment means the aggregate of social and physical conditions that influence the life of the individual and/or community.

Escrow funds means a deposit of cash or other approved security with the local government or approved bank or other financial institution in-lieu of a performance or maintenance bond.

ETJ limits means the limits of the city's extraterritorial jurisdiction as granted under == chapter 43 [chapter 42], Local Government Code.

Filing date means, with respect to a plan or plat, the date that the plan or plat is determined to be complete and is accepted for review by the city. With respect to plats or plans that must be acted upon by the council after action by the commission, the filing date for the purposes of the deadline for council action shall be the date of commission action.

Final plat means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.

Floodplain means the channel of a waterway and the adjacent land area subject to inundation during the design storm.

Floodway means the channel of a waterway and the adjacent land areas that must be reserved in order to discharge the design storm without cumulatively increasing the water surface elevation.

Front yard means a space extending the full width of the lot between any building setback line and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

Frontage means that side of a lot, parcel or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

Governing body means the city council of the City of Holland, Texas.

Grade means the slope of a road, street, other public way or utility line specified in terms of percent (%); the topographic relief of a parcel of land; the average elevation at ground level of the buildable area of a lot or parcel of land.

Grading means any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

Improvements means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

Individual on-site wastewater system or private sewage facility means all systems and methods used for the disposal of sewage, other than organized sewage disposal systems. Private sewage facilities are usually composed of three (3) units: the generating unit (the residence, institution, etc.), the treatment unit, and the disposal unit (the drainfield that may be an absorption trench or bed, or an evapotranspiration bed). A private sewage facility includes a septic tank, seepage tile sewage disposal system or any other on-lot sewage treatment device approved and installed in accordance with all local, state and federal laws and regulations.

Industrial means nonresidential use of any site involved in manufacturing and/or external storage of goods; any site generating significant negative externalities, such as noise, dust, glare, etc.; and/or any site where hazardous materials are stored and/or generated.

Interior lot means a lot other than a corner lot and bounded by a street on only one (1) side.

Landscape development means trees, shrubs, ground cover, vines or grass installed in planting areas.

Legal lot means either a lot recorded in the official county records pursuant to and in compliance with the subdivision regulations in effect at the time of its creation, or a tract of land having existed in its present configuration prior to October 1, 1927.

Legally platted lot means a lot which is part of a subdivision approved by the city and recorded in the official county records.

Letter of credit means a letter from a bank or other reputable creditor acceptable to the city that guarantees to the city that upon failure of the subdivider to fulfill any improvement requirements that at the city's request, funds will be provided to the city to complete the specified improvements.

Local health district means the Bell County Health District.

Local street means a street designed for the sole purpose of providing access.

Lot means a subdivision of a block or other parcel intended as a unit for transfer of ownership, or for development, or for occupancy and/or use.

Master plan means the overall development plan for the community which has been officially adopted to provide long-range development policies including all specified individual elements thereof among which are the plans for means land intensities; land subdivision; circulation; and community facilities, utilities and services; and, if none, means professional urban planning and engineering practices.

Minor street means a local street designed primarily for access to abutting residential properties. A minor street does not include a street designed or required to be designed for through traffic.

Multi-family residence means a single structure designed to accommodate four (4) or more households.

Municipal authority means the entity responsible for approving plats or plans governed by this article and as specified in the city's subdivision ordinance. Unless otherwise provided, city staff, as further specified in this article, is responsible for approving construction plans.

Natural channel means the topography of a waterway prior to construction, installation of improvements or any re-grading.

Natural drainage means a stormwater runoff conveyance system not altered by development.

Neighborhood means the area of the city characterized by residential land uses which is bounded by physical (such as a river, major street, back [lack][??] of access) and/or political features (such as voting districts, subdivision boundaries).

Neighborhood park means a privately owned parcel of land, within a subdivision, dedicated solely for recreational uses and maintained by the residents of said subdivision.

Official county records means the official records of Bell County, Texas.

Off-site improvements means any required improvement which lies outside of the property being developed.

One hundred (100) year floodplain means that flood which has a probability of occurring once in a one hundred (100) year period or a one percent (1%) chance in any given year.

Overland drainage means stormwater runoff which is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

Parent tract means tract or lot as described by deed or plat, which includes one (1) or more lots that are being subdivided.

Park fund means a special fund established by the city to retain monies paid by developers in accordance with the payment in-lieu of park land dedication provisions of these regulations and to be used for the purchase of park land or improvements in the vicinity of the subdivided property for which funds have been collected.

Plan or plat. The phrase “plan or plat” or “plat or plan” when used in this article refers to concept plans, preliminary plats, construction plans, final plats, minor plats, short form final plats, and amending plats. Specifically, the term “plan” refers to construction plans and the term “plat” refers to concept plans, preliminary plats, final plat, short form final plat, or amended final plat.

Planned unit development (PUD) means a subdivision, at least 250 acres in size and in the city’s extraterritorial jurisdiction.

Planning and zoning commission means the City of Holland planning and zoning commission.

Playscape means any structure permanently anchored to the ground that is designed for recreational purposes. Sports courts such as basketball or tennis courts are not considered playscapes.

Preliminary plan means a map of a proposed land subdivision showing the character and proposed layout of the property in sufficient detail to indicate the suitability of the proposed subdivision of land.

Primary structure means a structure in which the principal use of the lot is conducted. For example, for single-family residential lots, the house is the primary structure.

Privacy fence means an opaque fence or screen at least six (6) feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so that gaps in the fence do not exceed one-half (1/2) inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half (1/2) inch.

Public means, with respect to land and interests in land within the city limits, the city; and, with respect to land and interests in land within the ETJ limits, the general public.

Public use means places of noncommercial public assembly or administrative functions where the primary activity is contained within a building(s), including but not limited to churches, schools and government buildings.

Rear yard means a space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

Required yard means the open space between a lot line and the buildable area within which no structure shall be located except as provided for herein.

Reserve strip means a narrow strip of property usually separating a parcel of land from a roadway or utility line easement, that is characterized by limited depth which will not support development and which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited by these regulations unless their control is given to the city.

Resubmittal application means the application for a plan or plat resubmitted to the city following the disapproval or conditional approval of the original application or a resubmittal application that satisfies each condition of a conditional approval or remedies the reasons for disapproval.

Resubmittal date means the date that a resubmittal application is determined to be complete and is accepted for review by the city.

Reverse frontage lot means a double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

Right-of-way means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, or oil or gas pipeline, water main, sanitary or storm sewer main, or for other similar purpose or use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on the final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, wastewater lines, storm drains, or any other use involving maintenance by a public agency shall be dedicated to the public by the maker of the plat where such right-of-way is established.

Same ownership means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stock holder, partner, or associate or a member of his/her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Secondary structure means any structure that is subordinate and incidental to the primary structure; and is subordinate in area, extent and purpose to the primary structure; and contributes to the comfort, convenience or necessity of the occupants, business or industry in the primary structure, and is located on the same lot as the primary structure.

Setback or building line means a line or lines designating the interior limit of the area of a lot between said line and the corresponding line within which area structures may not be erected. The building lines generally provide the boundaries of the buildable area of any given lot.

Side yard means a space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

Slope means the vertical change in grade divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

Street means any public or private right-of-way which affords the primary means of vehicular access to abutting property.

Street line means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

Street side yard means the side yard of a corner lot abutting the street right-of-way.

Street yard means a space extending across the length and/or width of a lot between the street right-of-way and the closest faces of the buildings on the lot.

Structural integrity means the ability of a structure to maintain stability against normal forces experienced by said structure.

Structure means anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.

Subdivider means any person, developer, firm, partnership, corporation or other entity, acting as a unit subdividing or proposing to subdivide land as herein defined.

Subdivision means the division or redivision of land into two (2) or more lots, tracts, sites or parcels for the purpose of development, laying out any addition to the city, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park or other portion intended for use by the public, or for the use of any owner, purchaser, renter, occupant, person or entity.

Subdivision ordinance means Ordinance No. 4-12-3 (ord. 99) (this article).

Traffic impact analysis (TIA) means a study of the impacts of a development on the city's transportation system.

Urbanization means the process of constructing public improvements required to support suburban or urban land use.

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Variance means a grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article.

Watershed means area from which stormwater drains into a given basin, river or creek.

Waterway means any natural or man-made channel conducting storm water from a two (2) year storm event at a depth of eight (8) inches or more and at a rate of fifteen (15) cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

Working days means Monday through Friday exclusive of city-recognized holidays.

Yard means an open space that lies between the principal or accessory building or buildings and the nearest lot line.

Yard depth means the shortest distance between a lot line and a yard line.

Yard line means a line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

(Ordinance 4-12-3 (ord. 99), sec. 1, adopted 4/12/1999; Ordinance 09-16-19, sec. 2, adopted 5/18/2020)

§ 9.02.002. Purpose.

- (a) The purpose of this article is to provide for orderly, safe and healthful development to promote the health, safety, morals and general welfare of the community. From and after the passage of this article, all plats and subdivisions of land within the corporate limits of the city, and all plats and subdivisions of land outside the corporate limits of the city that the council may be petitioned to include within the corporate limits of the city by an extension of said corporate limits, and all tracts within the city's extraterritorial jurisdiction, shall conform to the following rules and regulations.
- (b) The system of improvements for thoroughfares, water and wastewater services, other utilities, drainage, public facilities and community amenities determines in large measure the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity and convenience are all factors which influence and determine a community's quality of life and character. A community's quality of life is of public interest. Consequently, the development of land, as it affects a community's quality of life, is an activity whose regulation is a valid function of municipal government.
- (c) The provisions contained herein are designed and intended to encourage the development of a quality urban environment by establishing standards for the provision of open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for insuring 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 this article, the interests of the public as well as those public and private parties, both present and future, having interest in property affected by these regulations are protected by the granting of certain rights and privileges.

- (d) This article is designed and intended to achieve the following purposes, and shall be administered so as to:
- (1) Assist orderly, efficient and coordinated development of land within the city's jurisdiction.
 - (2) Provide neighborhood conservation and prevent the development of slums and blight.
 - (3) Harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts.
 - (4) Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owner 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.
 - (5) Provide the most appropriate design for each tract being subdivided.
 - (6) Provide an attractive relationship between the land as developed and the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the proposed development, and to provide for the proper location and width of streets and building lines.
 - (7) Prevent pollution of the air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard both surface and groundwater supplies; and to 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.
 - (8) Preserve the natural beauty and topography of the municipality and ensure appropriate development with regard to these natural features.
 - (9) As appropriate, reconcile any differences of interest among the developer, other property owners and the city.
 - (10) Establish adequate and accurate records of land subdivision.
 - (11) Ensure that public or private facilities are available and will have a sufficient capacity to serve proposed subdivisions and developments within the city's jurisdiction.
 - (12) Standardize the procedure and requirements for developing property and submitting plans for review and approval.
 - (13) Protect and provide for the public health, safety, morals and general welfare of the community.
 - (14) Provide a healthy environment for the present and future citizens; an environment designed to reasonably secure safety from fire, flood and other dangers; and to provide that land be subdivided in a manner to attain such goals and benefits for the community.

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- (15) 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.
 - (16) Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land.
 - (17) Guide public and private policy and action in providing adequate and efficient transportation systems, water and wastewater systems, public utilities, and other public amenities and facilities.
 - (18) Encourage the development of a stable, prospering economic environment.
- (e) Certain minimum standards for land use, construction and development within the city limits are contained in the city's zoning ordinance, applicable building and plumbing codes, city standard details and specifications, and this article. 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 urban setting. Subdivision design within both the city and its extraterritorial jurisdiction should be of a quality to carry out the purpose and spirit of the policies expressed in the master plan and in this article, rather than be limited to the minimum standards required herein.
 - (f) Notwithstanding any term or provision of this article, no section, subsection, paragraph, term or provision of this article and no omission of any section, subsection, paragraph, word, term or provision herein shall create or impose any obligation or requirement on the commission or the city council to approve any proposed improvement, infrastructure, project, development, work or construction, or any part thereof, that would cause, or be likely to cause, or result in any unnecessary or reasonably avoidable hazard, danger or risk to the public health or safety, or that would potentially result in unnecessary future maintenance expense to the public, which expense would or may be disproportional to the public benefit.

(Ordinance 4-12-3 (ord. 99), sec. 2, adopted 4/12/1999)

§ 9.02.003. Authority.

- (a) This article is adopted pursuant to the police powers of general law cities, and under authority of the constitution and general laws of the State of Texas, including, but not limited to, chapter 212, Texas Local Government Code.
- (b) In accordance with the city's police powers and authority, and as specifically authorized by chapter 212, Texas Local Government Code, and other applicable laws, the planning and zoning commission, as a condition of subdivision plat or replat approval, shall require the owners and developers of land who desire to subdivide, plat or replat, or lay out any land for development within the city or its extraterritorial jurisdiction, for urban development or other purpose, to provide for building setback lines, to dedicate streets, alleys, parks, easements or other public places or facilities of adequate width and size and to coordinate street layouts and street planning with the city's master plan, with other municipalities, and with county, state and federally designated highways, as they may deem best in the interest of the general public, in

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order to provide for the orderly development of the areas and to secure adequate provision for traffic, light, air, recreation, transportation, water, drainage, sewage and other facilities.

(Ordinance 4-12-3 (ord. 99), sec. 3, adopted 4/12/1999)

§ 9.02.004. Jurisdiction.

Except as specifically provided otherwise herein, this article shall apply to all subdivisions and all related land development activities, as they are both defined herein, and all land, any part of which is located within the jurisdiction of the city. The jurisdiction of the city shall be defined as follows:

- (1) The corporate limits of the City of Holland, Texas; and
- (2) The extraterritorial jurisdiction of the City of Holland, Texas; and
- (3) Any additional area outside subsections (1) and (2) above as permitted by law and which has been approved by the council.

(Ordinance 4-12-3 (ord. 99), sec. 4, adopted 4/12/1999)

§ 9.02.005. Policy.

In order to carry out the purposes hereinabove stated, it is hereby declared to be the policy of the city to consider the subdivision and/or development of land as subject to the control of the municipality, pursuant to the master plan, if any, as adopted or amended from time to time, for the orderly, planned, efficient and economical development of the city and its jurisdiction. This section shall be administered such that:

- (1) Land to be subdivided and/or developed shall be of such nature, shape and location that with proper and careful design and development it can be safely used for building purposes without danger to health or risk of fire, flood, erosion, landslide or other menace to the general welfare.
- (2) A final plat shall not be recorded until the necessary public utilities and facilities and other required improvements exist or arrangements are made for their provision.
- (3) Buildings, lots, blocks and streets shall be arranged so as to provide for an attractive and healthful environment and to facilitate fire protection, and provide ample access to buildings for emergency equipment.
- (4) Land shall be subdivided and developed with due regard to topography and existing vegetation with the object being that the natural beauty and natural resources of the land shall be preserved to the maximum extent possible.
- (5) Existing features which would add value to development or to the city as a whole, such as scenic and special features, both natural and man-made, historic sites, and similar assets shall be preserved in the design of the subdivision whenever possible.

(Ordinance 4-12-3 (ord. 99), sec. 5, adopted 4/12/1999)

§ 9.02.006. Application.

- (a) The provisions of this article, including design standards and improvement requirements, shall, except as specifically provided otherwise in this article, apply to all subdivisions of land within the jurisdiction of the city, including but not limited to the following forms of land subdivision and development activity:
- (1) The division of land into two (2) or more tracts, lots, sites or parcels, any part of which shall contain less than five (5) acres in area when subdivided;
 - (2) The division of land into two (2) or more tracts, lots, sites or parcels, any part of which when subdivided shall contain five (5) acres or more in area and will require the dedication or conveyance of any access, public right-of-way, easement, or any public improvement;
 - (3) Land previously subdivided or platted into tracts, lots, sites or parcels, which subdivision was subject to, but not in accordance with, city or county ordinances in effect at the time of such subdividing or platting;
 - (4) The combining of two (2) or more contiguous tracts, lots, sites or parcels for the purpose of creating one (1) or more legal lots in order to achieve a more developable site, except as otherwise provided herein;
 - (5) Any planned unit development for which two (2) or more lots, tracts, or parcels are designed, established or created for occupancy, use or a building site, or for which a building permit, plumbing permit, electrical permit, floodplain permit, utility tap, or certificate of acceptance for required public improvements is required by the city;
 - (6) The platting of any existing legal deed-divided unplatted lot, parcel, site or tract;
 - (7) The voluntary platting and recording of a subdivision plat dividing any land within the jurisdiction of the city into lots, parcels, sites or tracts;
 - (8) Any plat having received approval from the commission or the council for which said approval has expired; or
 - (9) The dedication of any street or alley through any tract of land, regardless of the area involved.
- (b) There may be occasions when the city council deems it appropriate to allow a delay in the implementation of certain elements of this article. On those occasions, a development agreement shall be used in accordance with the city policy.

(Ordinance 4-12-3 (ord. 99), sec. 6, adopted 4/12/1999)

§ 9.02.007. Exemptions.

- (a) The provisions of this article shall not apply to:
- (1) Sales of land by metes and bounds in tracts of five (5) acres or more in area, except as otherwise specifically provided in this article;

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- (2) Cemeteries complying with all state and local laws and regulations;
- (3) Divisions of land created by order of a court of competent jurisdiction;
- (4) Any subdivision of land for which a concept plan, preliminary plan or final plat has been filed with the city on or before the effective date of this article, excluding any such plan or plat for which approval has expired or hereafter expires; or
- (5) The combination of two (2) platted lots for the creation of a more developable site and the planning and zoning commission finds that:
 - (A) The proposed use is the same as that for which the subdivision was platted by the subdivider; and
 - (B) No increase is anticipated in the estimated traffic generation or utility demands; and
 - (C) Off-site stormwater runoff is neither increased nor concentrated.
- (b) The provisions of this article shall not apply to the division of an existing legal lot, said division being caused by the city's acquisition of a part of said legal lot, when the council finds that the acquisition by the city is in the best interest of the public health, safety and welfare of the citizens of the city and/or its extraterritorial jurisdiction. Upon the council so finding, the resulting parcels shall be deemed to constitute legal lots for the purposes of developing under the requirements of this article and other applicable city regulations. In creating said division, the council is empowered to attach to the resulting parcels acquired by the city, and the remainder parcels not acquired by the city upon agreement with the owner, such conditions as it finds reasonable and necessary to offset any adverse effects resulting from the city's acquisition as a part of the original legal lot, insofar as any such condition is not contrary to the spirit and intent of this article.
- (c) The provisions of this article shall not be construed, interpreted or applied to land located within the extraterritorial jurisdiction of the city in a manner to regulate:
 - (1) The use of any building or property for any lawful purpose;
 - (2) The bulk, density or number of buildings on a tract or parcel of land;
 - (3) The floor to area ratio of any building to be constructed on any lot; or
 - (4) The number of residential units that can be built on an acre of land.

(Ordinance 4-12-3 (ord. 99), sec. 7, adopted 4/12/1999)

§ 9.02.008. Enforcement of regulations.

- (a) No subdivision of land within the city or its extraterritorial jurisdiction may be recorded until a final plat, accurately describing the property to be subdivided and platted, has been approved by the city in accordance with this article and applicable laws, signed and dated by the chair of the planning and zoning commission, the mayor and/or other designated officers of the city, and filed in the official county records.

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- (b) 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 or with respect to any land within the city limits; and no floodplain permit, utility tap or certificate of acceptance for required public improvements shall be issued by the city for or with respect to land within the ETJ limits:
- (1) For any parcel or plat of land which was developed after the effective date of, and not in conformity with, the provisions of this article; and/or
 - (2) Until (i) all improvements required by this article have been constructed and accepted by the city, or (ii) assurances for the completion of improvements have been provided in accordance with this article.
- (c) No excavation or clearing of land, or construction of any public or private improvements shall take place or commence, within six (6) months preceding the date of application for the approval of any development or subdivision; and no such excavation, clearing of land or construction shall begin within any proposed subdivision until such time as the city engineer approves the plans and specifications for such subdivision.
- (d) This article may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this article, with respect to any land or development within the city, [is punishable][??] by fine and penalties as provided herein.

(Ordinance 4-12-3 (ord. 99), sec. 8, adopted 4/12/1999)

§ 9.02.009. through § 9.02.030. (Reserved)

Division 2
Procedure

§ 9.02.031. Review and approval procedures.³

- (a) General procedures.
- (1) Action on plats and plans. Plats and plans for the development of land within the scope of this article shall be drawn and submitted to the municipal authority for their approval, conditional approval, or disapproval, as provided herein. If an application is approved with conditions or disapproved, the municipal authority shall provide or cause to be provided to the applicant a written statement for the conditions for approval or reasons for disapproval that clearly articulate each specific condition for the conditional approval or reason for disapproval. Each

3. Editor's note: Sections 3–6 of Ordinance 09-16-19, adopted 5/18/2020, contains provisions amending the subdivision ordinance, but does not specify the manner of inclusion. These provisions have been included by the editor as sections 9.02.031 through 9.02.034. Section 9 of said ordinance provides that the ordinance takes effect 9-16-2019 and in accordance with the provisions of Tex. Loc. Gov't Code, and is applicable to plat or plan applications filed on or after 9-16-2019. Section 2 of said ordinance, which adds definitions, has been incorporated in § 9.02.001. A complete copy of the ordinance is on file in the city offices.

condition or reason specified in the written statement shall include a citation to the law or ordinance that is the basis for the conditional approval or disapproval, as applicable. In the event that a municipal authority subject to quorum requirements fails to act due to lack of a quorum at the meeting at which an application is posted for action, then: (i) the application will be deemed approved if it meets the requirements of this article and applicable state law and was recommended for approval by city staff; or (ii) the presiding officer of the municipal authority is authorized to disapprove an application that is recommended by city staff to be disapproved due to failure to comply with this article or applicable law.

- (2) Commencement of construction. Notwithstanding any provision of this article to the contrary, an applicant shall not commence construction activities within the city's jurisdiction before first obtaining all of the city approvals required by this article.
- (3) Pre-development meeting. The applicant is required to attend a pre-development meeting with city staff to help familiarize the applicant with applicable codes and regulations before submission of the first plat or plan application. The city manager/city administrator or designee may waive this requirement if they deem that the meeting is not necessary.
- (4) General subdivision process. Generally, the subdivision process is comprised of four (4) individual steps, consisting of the concept plan, the preliminary plat, construction plans, and the final plat. Each step of the development process has established deadlines and expirations that must be met in order for the application and any approval(s) granted to remain valid, in effect and eligible to continue to the next step of, or to complete, the development process. Compliance with each such established deadline constitutes a separate required performance and approval.
- (5) Submittal schedule. The city staff shall prepare an application submittal schedule. This submittal schedule shall be reviewed and approved by the commission annually. Applications will only be accepted for submittal or resubmittal on the days authorized by the schedule approved by the commission. The city staff is authorized to adjust an approved schedule to accommodate holidays, city hall closures, and cancelled or special called meetings.
- (6) Application forms. The city staff shall prepare application forms which shall include a checklist of the required information and documents that are required to be submitted by applicants in order for an application to be accepted as complete for review and processing under this article. The city staff shall update the application from time to time as required due to amendments to this article, state law, or applicable technical codes and manuals. The commission shall review and approve the application forms and amendments prepared by the city staff from time to time.
- (7) Application completeness review.
 - (A) City staff shall review all applications for completeness and either accept the application as complete or reject the application and provide the

applicant with written notice of rejection that specifies the reasons for rejection within ten (10) business days of the date the application is submitted. An application will be considered complete if it is submitted in the required form, includes all information certificates, plans, documents, and instruments required in the application and by this article, and is accompanied by the applicable fees. All applications shall also include a list of any requested variance or exceptions from the city's ordinance. Resubmittal applications are also subject to this subsection (7). An application that is facially not complete, i.e., does not include completed forms, the information or documents required in the application are lacking, or it is not accompanied by the applicable fees will not be accepted by the city. If, after additional review, the application is determined to be incomplete, the city staff shall provide written notice of the rejection of the application that includes a description of the application's deficiencies. No further processing of the application will occur until the deficiencies are corrected.

- (B) The following are additional requirements for acceptance of an application:
- (i) Required number of copies. The required number of copies of applications and its components, having the form and content specified in this article for the plat package, shall be as follows: Three (3) copies.
 - (ii) Concept plan. In addition to the items required on the concept plan application and checklist: Traffic impact analysis.
 - (iii) Preliminary plan. In addition to the items required on the preliminary plat application and checklist: Traffic impact analysis.
 - (iv) Replat application. In addition to the items required on the preliminary plat application and checklist: Traffic impact analysis.
 - (v) Construction plans. In addition to the items required on the construction plan application and checklist, the following must be reviewed and approved prior to the submittal of the construction plan application and submitted with the application in order for it to be accepted as complete, unless the city staff determines that one of the items is either not needed or may be reviewed concurrently to process the construction plan application: Traffic impact analysis.
 - (vi) Final plan. In addition to the items required on the final plan and checklist: Traffic impact analysis.
- (8) Order of acceptance. No preliminary plat shall be accepted for filing until the concept plan has been approved. No final plat or construction plans shall be accepted for filing until the preliminary plat has been approved. Any plans or plats tendered to the city prior to receiving the appropriate approvals as provided in this section shall not be accepted as received.
- (9) Resubmittal applications. Resubmittal applications are subject to the completeness review process set forth in this section. In addition to containing the portions of

the original application that are being modified, the resubmittal application shall include a transmittal letter that describes how each reason for disapproval of the particular plat or plan that is the subject of the resubmittal application is being remedied or how each condition of a conditional approval is being satisfied, as applicable, and identifying the location in the resubmittal application where each remedy or response to a condition can be found. The transmittal letter shall further identify whether any other changes to the application have been made other than those necessary to respond to the reasons for disapproval. A resubmittal application that modifies the original application beyond what is required to satisfy a conditional approval or to remedy reasons for disapproval shall be considered a new application and must be accompanied by the required application fee and will be reviewed and processed in accordance with the deadlines and procedures applicable to initial applications, including but not limited to the thirty (30) day approval deadlines. Except for construction plan applications, resubmittal applications submitted for the purpose of satisfying a conditional approval or to remedy the reasons for disapproval of a resubmittal application shall be accompanied by the applicable resubmittal application fee.

- (10) Incomplete application expirations. An application shall expire on the 45th day after the date the application is submitted to the city if:
- (A) The applicant fails to provide documents or other information necessary to comply with requirements relating to the form and content of the application set forth in this article;
 - (B) Within ten (10) business days of the date the application is submitted to the city, the city provides the applicant written notice of the failure that specifies the necessary documents or other information that are missing from the application and the date the application will expire if the documents or other information is not provided; and
 - (C) The applicant fails to provide the specified documents or other information within the time provided in the notice.
- (11) Processing of applications accepted for filing.
- (A) Prior to the commission meeting at which the concept plan is to be heard, city staff shall review the plan for consistency with city codes, policies and plans.
 - (B) The application shall be scheduled for consideration by the municipal authority within thirty (30) days of the application filing date (or within the applicable extension period if an extension is granted), or within fifteen (15) days of the resubmittal date, as applicable. For applications acted upon by the city council in addition to the municipal authority, the application shall be scheduled for consideration by the council within thirty (30) days of the municipal authority's action on the application (or within the applicable extension period if an extension is granted), or within fifteen (15) days of commission's action on a resubmittal application, as applicable.

- (C) City staff shall prepare a report analyzing the application and recommending action on the application. If the recommended action is disapproval or conditional approval, the report shall include the reasons for disapproval or the conditions for approval, as applicable, and citations to the law or ordinance that is the basis for disapproval or the conditional approval.
- (12) Approval, disapproval, or conditional approval.
- (A) Initial application. The municipal authority shall take action on the application within thirty (30) days of the filing date. The failure of the municipal authority to act within thirty (30) days of the filing date (or within sixty (60) days of the filing date where an extension has been granted), shall be deemed an approval of the plan or plat by the respective body, except as otherwise agreed to by the applicant pursuant to section 9.02.032.
- (B) Resubmittal application. After disapproval or conditional approval of an application, the applicant may submit a resubmittal application that addresses each condition of approval or remedies each reason for disapproval provided.
- (C) Action on resubmittal application. The municipal authority shall take action on the resubmittal application within fifteen (15) days of resubmittal date. If the city council also approves an application, the council, within fifteen (15) days of the date of action on the application by the municipal authority, shall take action on the application. The failure of either the municipal authority to act within fifteen (15) days of the resubmittal date (or the council to act within fifteen (15) days of action on the resubmittal application by the commission, as applicable) shall be deemed an approval of the plan or plat by the municipal authority, if the resubmittal application satisfies all conditions of a conditional approval or remedies all reasons for disapproval, except as otherwise requested by the applicant and approved by the municipal authority pursuant to section 9.02.032.
- (13) Application expiration.
- (A) An application shall expire six (6) months after the date that all initial staff review comments from all reviewing departments have been issued on the application if the application is not approved due to the applicant's failure to cause the application to comply with applicable city regulations.
- (B) The planning department may grant one six (6) month extension if the applicant can show substantial progress in obtaining approval of the application. Substantial progress shall consist of, at a minimum, a resubmission of the application and all relevant materials by the applicant that address all initial staff review comments from all reviewing departments.
- (C) After expiration of an application, any new application will be required to be resubmitted as a new application including repaying all of the fees associated with this process.

- (14) Approval does not waive compliance. Approval of a plan or plat under this article does not waive any requirement or regulation under this article or an applicable city code unless a waiver, exemption, or variance to such requirement or regulation is granted by the city employee, official, or body authorized to grant such waiver, exemption, or variance.

(Ordinance 09-16-19, sec. 3, adopted 5/18/2020)

§ 9.02.032. Requests for extension of approval deadline or waivers of procedures.

- (a) The applicant may request an extension of the thirty (30) day approval deadlines set forth in this article by requesting an extension on the application form. The extension request will be considered by the municipal authority responsible for approving the particular plan or plat application. Approval of an extension request will extend the deadline for approval of a plan or plat by thirty (30) days.
- (b) The applicant may also request in writing the waiver of a deadline or procedure set forth in this article. If approved by the municipal authority, the waiver shall be documented by letter agreement or other form of agreement approved by the municipal authority.

(Ordinance 09-16-19, sec. 4, adopted 5/18/2020*)

§ 9.02.033. Conditions for issuing building permit, issuing site development permit, or accepting improvements.

No improvements to be accepted by the city for ownership, maintenance and operation shall be accepted; no building permit shall be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land; no site development permit shall be issued for any lot or tract of land; and no municipal utility service will be furnished to such lot or tract which does not comply with the provisions of this article and all applicable provisions of the city's ordinances, except as herein exempted or specifically exempted by the city council or upon the written application and approval of a variance. Every official and employee of the city vested with the duty or authority to issue an approval, permit or certificate shall not issue an approval, permit or certificate for any application, plan, plat, use, building, improvement, or purpose that conflicts with any provision of this article. Any approval, permit, or certificate issued in conflict with the provisions of this article shall be null and void.

(Ordinance 09-16-19, sec. 5, adopted 5/18/2020⁵)

§ 9.02.034. Notification and public hearing.

The notification provisions of this section apply to replat applications that were limited by the following during the past five (5) years: interim or permanent zoning classification for a residential use not more than two (2) residential units per lot; or limited by deed restrictions

4. Editor's note: See also the editor's note at the beginning of § 9.02.031.

5. Editor's note: See also the editor's note at § 9.02.031.

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to residential use for not more than two (2) residential units per lot. All owners of property (as determined by the most recent municipal tax rolls from the county appraisal district), any part of which is located within two hundred (200) feet of the perimeter of the land to be developed, shall be notified by mail.

- (1) The applicant shall post signs along contiguous rights-of-way at each corner of the development and at intervals that do not exceed three hundred (300) feet between said corners. Signs must be in accordance with the city standard details and specifications. Signs must be posted at least fifteen (15) days before the first public hearing but shall not be posted more than thirty (30) days in advance of the first public hearing.
- (2) The city shall mail public notification forms, postmarked not fewer than fifteen (15) days prior to the appropriate commission hearing, to the owners of all property, any part of which is located within two hundred (200) feet of the perimeter of the property included within the concept plan.

(Ordinance 09-16-19, sec. 6, adopted 5/18/2020⁶)

§ 9.02.035. General procedure.

- (a) Plans for the development of land within the scope of this article shall be drawn and submitted to the commission and council for their approval or disapproval, as provided in herein.
- (b) Notwithstanding any provision of this article to the contrary, a developer shall not commence construction activities within the city's jurisdiction, including clearing and/or rough grading, before first obtaining all the city approvals required by this article.
- (c) Generally, the subdivision process is comprised of four (4) individual steps, including the concept plan, the preliminary plat, construction plans, and the final plat. Each step of the development process has established deadlines and expirations that must be met in order for the application and any approval(s) granted to remain valid, in effect and eligible to continue to the next step of, or to complete, the development process. Compliance with each such established deadline constitutes a separate required performance and approval.

(Ordinance 4-12-3 (ord. 99), sec. 20, adopted 4/12/1999)

§ 9.02.036. Concept plan.

- (a) Purpose. The purpose of the concept plan is to demonstrate conformance with the master plan, compatibility of the proposed development with this article and other applicable city ordinances, and the coordination of improvements within and among individually platted parcels, sections, or phases of a development, prior to the consideration of a preliminary plat.
 - (1) A concept plan shall be required for all subdivisions of land, except as otherwise provided for in this article for short form final plats.

6. Editor's note: See also the editor's note at § 9.02.031.

- (2) The concept plan shall include all adjacent and contiguous land, owned or controlled by the developer or the person, firm or corporation that sold the tract being developed.
- (3) It shall not be necessary to submit a concept plan on any land more than once, unless the concept substantially or materially changes, or approval of the precedent concept plan has expired, as defined in this article.
- (b) Format. It is recommended that a concept plan be drawn on twenty-four by thirty-six inch (24" x 36") sheet(s) at a scale of one (1) inch equals one (1) hundred feet (1" = 100') or one (1) inch equals two (2) hundred feet (1" = 200') with all dimensions measured accurately to the nearest foot.
- (c) Content. The concept plan shall contain or have attached thereto:
 - (1) Name, address and phone numbers of the developer, record owner, and authorized agents (engineer, surveyor, land planner, etc.).
 - (2) Proposed name of the development; date revised and/or prepared; north indicator; scale.
 - (3) Location map drawn at a scale of two thousand (2,000) feet per inch showing the area within a one (1) mile radius of the proposed subdivision. Use of the latest USGS 7.5 minute quadrangle map is recommended.
 - (4) A layout of the entire tract and its relationship to adjacent property, existing development and recorded plats.
 - (5) The owner's name, deed or plat reference and property lines of property within three hundred (300) feet of the development boundaries, as determined by current tax rolls.
 - (6) Topographic contours at ten (10) foot intervals, or less, unless otherwise approved by the city.
 - (7) Proposed major categories of land use by acreage showing compatibility of land use with, or proposed variance from, the master plan.
 - (8) Proposed number of residential and nonresidential lots, tracts or parcels of[??] together with the estimated:
 - (A) Number of LUEs required for each category of lots; and
 - (B) Traffic volume to be generated by all proposed development other than single-family residential.
 - (9) Proposed and existing arterial and collector streets to serve the general area.
 - (10) Location of sites for parks, schools and other public uses, and all areas of common ownership.
 - (11) Significant drainage features and structures including any regulatory one hundred (100) year floodplains.

- (12) Significant existing features on or within 200 feet of the property, such as railroads, roads, buildings, utilities and drainage structures.
 - (13) Approximate boundaries and anticipated timing of proposed phases of development.
 - (14) Identification of known exceptional topographical, cultural, historical, archaeological, hydrological and other physical conditions of the property to be developed, or existing within two hundred (200) feet of the property, which will require the establishment of reasonable design standards in excess of the established minimum standards or require a variance from those established minimum standards as defined in this article.
 - (15) Location of city limit lines and/or outer border of the city's extraterritorial jurisdiction, as depicted on the city's most recent base map, if either such line traverses the development or is contiguous to the development's boundary.
 - (16) A proposed phasing plan for the development of future sections.
- (d) Procedure. A concept plan shall be submitted to the city for approval by both the commission and the council.
- (1) Legible prints, as indicated on the application form, shall be submitted at least thirty (30) days prior to the regular meeting of the commission along with the completed application forms, and payment of all applicable fees and any attendant documents needed to supplement the information provided on the plan.
 - (2) City staff shall review all concept plan submittals for completeness at the time of application. If in the judgment of city staff, the concept plan submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.
 - (3) Prior to the commission meeting at which the concept plan is to be heard, city staff shall review the plan for consistency with city codes, policies and plans.
 - (4) City staff shall prepare a report analyzing the concept plan submittal, as well as any comments received concerning the concept plan, and recommending either approval or disapproval of the concept plan. This report shall be available at least five (5) working days prior to the commission meeting.
 - (5) If the developer chooses to withdraw the concept plan, he/she may do so in writing delivered by noon of the third working day preceding the commission meeting. A withdrawn concept plan may be resubmitted and appear on the next commission agenda after repayment of the applicable fees.
- (e) Notification. All owners of property (as determined by the most recent tax rolls from the county appraisal district), any part of which is located within three hundred (300) feet of the perimeter of the land to be developed, shall be notified by mail.
- (1) The developer shall post signs along contiguous rights-of-way at each corner of the development and at intervals that do not exceed three hundred (300) feet between said corners. Signs must be in accordance with the city standard details and specifications.

- (2) The city shall publish a public notice at least once in a newspaper of general circulation in the city not fewer than fifteen (15) nor more than thirty (30) days prior to said public hearing.
 - (3) The city shall mail public notification forms, postmarked no fewer than fifteen (15) days prior to the appropriate commission hearing, to the owners of all property, any part of which is located within three hundred (300) feet of the perimeter of the property included within the concept plan.
- (f) Approval. The commission and council, after holding public hearings in accordance with city ordinances and codes, shall approve or disapprove the concept plan.
- (1) The failure of either the commission or the council to act within thirty (30) days of the concept plan's respective filing date with the commission or council shall be deemed an approval of the plan by the respective body, except as otherwise agreed to by the developer.
 - (2) The council, within thirty (30) days of the filing date, shall either confirm the action of the commission, disapprove the concept plan or request that the commission consider the council's recommendation at the next regularly scheduled commission meeting.
 - (3) The council may not delete or amend conditions established by the commission, but it may attach additional conditions, provided that such additions do not negate the effect of the commission's conditions. The respective minutes of the commission and council shall cite findings of fact supporting their actions.
 - (4) If the concept plan is resubmitted to the commission for consideration of the council's recommendation, then the subsequent action of the commission shall be final.
 - (5) If applicable, zoning of the tract shall permit the uses proposed by the concept plan, or a zoning amendment necessary to permit the proposed uses shall be required prior to approval of the concept plan.
 - (6) Approval of a concept plan constitutes acceptance of the general development and arrangement of lots indicated on the plan; the classification and arrangement of streets indicated; the proposed phasing plan; and the nature of utility service proposed. Subsequent zoning approvals cannot be guaranteed.
 - (7) Concept plan approval does not ensure approval of a preliminary plat failing to meet specific requirements of this article, and approval does not comprise any vesting of development rights or any assurance that permits of any kind will be issued.
 - (8) Upon approval of the concept plan, the developer shall submit one (1) mylar copy of the approved concept plan to be kept on file as a public record in the office of the city.
- (g) Expiration. The approval of a concept plan shall expire one (1) year after the filing date unless:

- (1) A preliminary plat on all, or a portion of, the land is filed prior to such expiration date; or
 - (2) An extension is granted by the commission in accordance with this article; or
 - (3) The development proceeds in accordance with an approved phasing plan. At such time as the development lags one (1) year behind the approved phasing plan, the approval shall expire if the developer does not, prior to the expiration date, submit and obtain approval of a written request for the extension and continuance of the concept plan prior to expiration.
 - (4) If a concept plan expires, it may be reinstated only upon resubmittal of the unaltered, approved plan to the commission and council and the approval by both bodies. All fees shall be repaid as if the plan were initially being submitted.
- (h) Extension. The developer may apply for an extension, in writing, prior to the end of the initial twelve (12) month period, stating reasons for needing the extension and demonstrating subsequent development activity in accordance with this article. Upon receipt of this written request, the commission may, at its discretion, grant an additional six (6) month extension so long as the concept plan remains consistent with the master plan and/or ordinances of the city.
- (i) Revision. If a revision to a previously approved concept plan is required, all changes must be completed on the one (1) mylar copy on file in the office of the city, and resubmitted to the commission and council for approval. All fees shall be repaid as if the concept plan was initially being submitted.

(Ordinance 4-12-3 (ord. 99), sec. 21, adopted 4/12/1999)

§ 9.02.037. Preliminary plat.

- (a) Purpose. The preliminary plat provides detailed graphic information and associated text indicating property boundaries, easements, land use, streets, utilities, drainage, and other information required to evaluate proposed subdivisions of land. A preliminary plat shall be required for any subdivision of land, except as otherwise provided for in this article, subsequent to concept plan approval.
- (b) Format. It is recommended that the preliminary plat be drawn on twenty-four by thirty-six inch (24" x 36") sheet(s) at a scale of one (1) inch equals one hundred feet (1" = 100') with all dimensions labeled accurately to the nearest foot. When more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one (1) inch equals four hundred feet (1" = 400') shall be attached to the plat.
- (c) Content. The preliminary plat shall include all of the tract intended to be developed at one (1) time, and any off-site improvements required to accommodate the project. The preliminary plat shall contain or have attached thereto:
 - (1) General information.
 - (A) Name, address and phone numbers of the developer, record owner, and authorized agents (engineer, land planner, etc.).

- (B) The proposed name of the subdivision, which shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the city or within the extraterritorial jurisdiction of the city, provided however that use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section or phase number.
 - (C) The date, scale, and north indicator.
 - (D) A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one (1) inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.
 - (E) The owner's name, deed or plat reference and property lines of property within three hundred (300) feet of the subdivision boundaries as determined by the most recent tax rolls.
 - (F) Certification and signature blocks as required by the city and the county.
 - (G) The total acreage of the property to be subdivided and the subtotals by land use.
- (2) Existing conditions.
- (A) The existing property lines, including bearings and distances, of the land being subdivided. Property lines shall be drawn sufficiently wide to provide easy identification.
 - (B) The location of existing watercourses, dry creek beds, wells, sinkholes and other similar topographic features.
 - (C) Significant trees, within the boundaries of the subdivision and of 8-inch caliper and larger, shall be shown accurately to the nearest one (1) foot; critical root zones of these trees shall also be shown.
 - (D) Centerline of watercourses, creeks, existing drainage structures and other pertinent data shall be shown.
 - (E) Areas subject to flooding shall be shown, delineating the regulatory one hundred (100) year floodplain, and any other floodplains identified in the city's master drainage plan.
 - (F) Topographic data indicating one (1) foot contour intervals for slopes less than 5%, two (2) foot contour intervals for slopes between 5% and 10%, and five (5) foot contour intervals for slopes exceeding 10%. The contoured area shall extend outward from the property boundary for a distance equal to twenty-five percent (25%) of the distance across the tract, but not fewer than fifty (50) feet nor more than two hundred (200) feet.
 - (G) The locations, sizes and descriptions of all existing utilities, including but not limited to wastewater lines, lift stations, wastewater and storm sewer

manholes, water lines, water storage tanks, and wells within the subdivision, and/or adjacent thereto.

- (H) The location, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from existing deed and plat records. The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown.
 - (I) The location of city limit lines and/or outer border of the city's extraterritorial jurisdiction, as depicted on the city's most recent base map, if either traverses the subdivision or is contiguous to the subdivision boundary.
- (3) Improvements.
- (A) The location, size and description of any proposed drainage appurtenances, including storm sewers, detention ponds and other drainage structures proposed to be constructed on and off the site, and designed in accordance with the requirements of this article.
 - (B) The developer shall include a copy of the complete application for floodplain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
 - (C) The location, dimensions, names and descriptions of all proposed streets, alleys, parks, open spaces, blocks, lots, reservations, easements and rights-of-way; and areas within the subdivision indicating the connection to or continuation of other improvements in adjacent subdivisions.
 - (D) The location of building setback lines indicated by dashed lines on the plat.
 - (E) Numbers to identify each lot and each block.
 - (F) The lengths of each proposed property line of all lots. The area of each non-rectangular lot shall be provided.
 - (G) Significant trees to remain during construction showing the critical root zones as solid circles, and significant trees designated to be removed showing the critical root zones as dashed circles.
 - (H) Replacement trees shall be shown on the preliminary plat based on a replacement ratio (inches removed to inches planted) of:
 - (i) 1:2 for significant trees eighteen (18) inches in caliper and larger; and
 - (ii) 1:1 for significant trees between eight (8) and eighteen (18) in caliper.
 - (iii) Replacement trees shall not be required for the removal of trees smaller than eight (8) inches in caliper. The removal of significant trees larger than eighteen inches in caliper require commission approval.

- (4) Support documents.
- (A) A drainage study, consisting of a drainage area map with contours, location and capacities of existing and proposed drainage features, and calculations in accordance with this article and good engineering practices, shall be provided to ensure the property will be developed in accordance with city drainage policies.
 - (B) Utility demand data, consistent with the proposed uses indicated on the preliminary plat, to determine the adequacy and the consistency of proposed utility improvements.
 - (C) A letter of certification, when applicable, that the plat has been submitted to the county health district for review (applicable to all projects proposing septic systems and/or containing any portion of the regulatory one hundred (100) year floodplain outside of the city limits).
- (5) Accuracy of data. The applicant shall be responsible for verifying the accuracy of all data submitted, including that which might be obtained from the city, excepting that data which can only be obtained from the city.
- (d) Procedure. A preliminary plat for any proposed subdivision of land, shall be submitted to the city for commission and city council approval.
- (1) Legible prints, as indicated on the application form, shall be submitted at least thirty (30) days prior to the regular meeting of the commission at which the preliminary plat is to be heard, along with the following:
 - (A) Completed application forms and the payment of all applicable fees.
 - (B) A summary letter stating briefly the type of street surfacing, drainage, water and wastewater facilities proposed, and declaring the intent to either dedicate park land or pay fees-in-lieu of said dedication if such dedication or fees apply.
 - (C) A petition requesting annexation, if applicable.
 - (D) A letter requesting any variances from the provisions of this article.
 - (E) Any attendant documents needed to supplement the information provided on the preliminary plat.
 - (2) For projects located within the city's extraterritorial jurisdiction, one (1) extra copy of the above-referenced items must be provided to the county for review and approval. The applicant shall be responsible for any additional information required by the county for preliminary plan approval.
 - (3) City staff shall review all preliminary plat submittals for completeness at the time of application. If, in the judgment of city staff, the preliminary plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.

- (4) Prior to the commission meeting at which the preliminary plat is presented, city staff shall review the plat for consistency with city ordinances, codes, policies and plans.
- (5) City staff shall prepare a report analyzing the preliminary plat submittal, as well as any comments received concerning the concept plan, and recommending either the approval or disapproval of the preliminary plat. This report shall be available at least five (5) working days prior to the commission meeting.
- (6) If the developer chooses to withdraw the preliminary plat, in writing, by noon of the third working day preceding the meeting commission, the submittal may appear on the next commission agenda after repayment of the applicable fees.
- (e) Notification. Public notification for a preliminary plat shall be the same as the notification procedures for the concept plan.
- (f) Approval. The commission, after holding public hearings in accordance with city ordinances and codes, shall act on the request for preliminary plat approval, and shall make its recommendation to the city council.
 - (1) The failure of the commission to act within thirty (30) days of the preliminary plat filing date shall be deemed an approval of the plat by the commission, except as otherwise agreed to by the developer. In such event, the developer may request the preliminary plat be placed on the agenda of the city council for its consideration and approval. The failure of the city council to act within thirty (30) days of the date a preliminary plat meeting all the requirements of this article is considered at a properly noticed meeting of the city council shall be deemed approval of the preliminary plat.
 - (2) Zoning of the tract, if applicable, that shall permit the uses proposed by the preliminary plat, or any pending zoning amendment necessary to permit the proposed uses shall have been adopted by the council prior to approval of the preliminary plat.
 - (3) Approval of the preliminary plat shall not constitute approval of the final plat, but shall constitute a vesting of the right to develop under city ordinances, codes and policies in effect on the date of the approval provided that neither the preliminary plat nor any subsequent plat or permit has been, or is, allowed to expire.
 - (4) The developer should be aware that specific approvals from other agencies may be required.
 - (5) Upon approval of the preliminary plat, the developer shall furnish one (1) mylar reproducible copy of the approved plat to be kept on file at the city as public record.
- (g) Expiration.
 - (1) The approval of the preliminary plat shall expire twelve (12) months after the filing date, unless:
 - (A) A corresponding final plat on all, or a portion of, the land approved on the preliminary plat is filed; or

- (B) An extension is granted by the commission and the city council in accordance with this article.
- (2) If a preliminary plat expires, it may be reinstated only upon resubmittal of the unaltered, approved plat to the commission and council and the approval by both bodies. All fees shall be repaid as if the plat were initially being submitted.
- (h) Extension. The developer may apply for an extension, in writing, prior to the end of the initial twelve (12) month period, stating reasons for needing the extension and demonstrating pursuit of approvals for construction plans and/or final plat in accordance with this article. Upon receipt of this written request, the city council may, at its discretion, grant up to a two (2) year extension so long as the preliminary plat remains consistent with the master plan and/or ordinances of the city.
- (i) Revision. If a revision to a previously approved preliminary plat is required, then no application for final plat shall be accepted until the revised preliminary plat has been submitted and approved by the commission and the city council. This signed, approved document shall be kept on file as public record in the offices of the city.
- (j) Responsibility. Notwithstanding the approval of any preliminary plat by the council, commission or the city engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this article shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

(Ordinance 4-12-3 (ord. 99), sec. 22, adopted 4/12/1999)

§ 9.02.038. Construction plans.

- (a) Purpose. Construction plans, based upon the approved preliminary plat, and consisting of detailed specifications and diagrams illustrating the location, design, and composition of all improvements identified in the preliminary plat phase and required by this article and other applicable city ordinances, codes and policies, shall be submitted to the city for approval. In addition, any project that necessitates the construction, reconstruction or modification of existing city infrastructure shall also be submitted to the city for approval. The plans shall be kept by the city as a permanent record of required improvements in order to:
- (1) Provide better records that facilitate the operation and maintenance of, and any future modifications to existing city infrastructure.
 - (2) Provide data for evaluation of materials, methods of construction and design.
 - (3) Provide documentation of approved public improvements to ensure that all such improvements are built to city standards and specifications.
 - (4) No final plat shall be certified by the city, and no construction activities shall commence, until such time as construction plans completely describing the on-site and off-site improvements required by this article and other applicable city ordinances and codes, have been approved by the city engineer.

- (b) Format. Drawings shall be on twenty-four inch by thirty-six inch (24" x 36") sheets at generally accepted horizontal and vertical engineering scales.
- (c) Content. Construction plans shall include all on-and off-site improvements required to serve the proposed development as indicated on the approved preliminary plat and in compliance with applicable ordinances, codes, standards and policies of the city, and other applicable governmental entities. All construction plans shall be signed and sealed by a registered professional engineer, licensed to practice in the State of Texas, and shall contain or have attached thereto:
- (1) Cover sheet.
 - (A) The appropriate project name, date, and the name, addresses and phone numbers of the developer, engineer and surveyor, etc.
 - (B) A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.
 - (2) Street and roadway systems.
 - (A) The horizontal layouts and alignments showing geometric data and other pertinent design details. The horizontal layout shall also show the direction of storm water flow and the location of manholes, inlets and special structures;
 - (B) Vertical layouts and alignments showing existing and proposed centerline, right and left right-of-way line elevations along each proposed roadway;
 - (C) Typical right-of-way cross-sections showing pertinent design details and elevations as prescribed in the city standard details and specifications;
 - (D) Typical paving sections showing right-of-way width, lane widths, median widths, shoulder widths, and pavement recommendations; and
 - (E) Attendant documents containing any additional information required to evaluate the proposed roadway improvements, including geotechnical information.
 - (3) Drainage improvements.
 - (A) Detailed design of all drainage facilities as indicated in the preliminary plat phase, including typical channel or paving section, storm sewers and other storm water control facilities.
 - (B) Typical channel cross-sections, plan and profile drawings of every conduit/channel shall be shown.
 - (C) Existing and proposed topographic conditions indicating one (1) foot contour intervals for slopes less than 5%, two (2) foot contour intervals for slopes between 5% and 10%, and five (5) foot contour intervals for slopes exceeding 10%, and referenced to a United States Geological Survey or Coastal and Geodetic Survey benchmark or monument.

- (D) Attendant documents containing design computations in accordance with this article, and any additional information required to evaluate the proposed drainage improvements.
 - (E) A copy of the complete application for floodplain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
- (4) Erosion and sedimentation controls.
- (A) Proposed fill or other structure elevating techniques, levees, channel modifications and detention facilities.
 - (B) Existing and proposed topographic conditions with vertical intervals not greater than one (1) foot referenced to a United States Geological Survey or Coastal and Geodetic Survey benchmark or monument.
 - (C) The location, size, and character of all temporary and permanent erosion and sediment control facilities with specifications detailing all on-site erosion control measures which will be established and maintained during all periods of development and construction.
 - (D) Contractor staging areas, vehicle access areas, temporary and permanent spoils storage areas.
 - (E) A plan for restoration for the mitigation of erosion in all areas disturbed during construction.
- (5) Water distribution systems.
- (A) The layout, size and specific location of the existing and proposed water mains, pump stations, storage tanks and other related structures sufficient to serve the proposed land uses and development as identified in the preliminary plat phase and in accordance with the city standard details and specifications.
 - (B) The existing and proposed location of fire hydrants, valves, meters and other fittings.
 - (C) Design details showing the connection with the existing city water system.
 - (D) The specific location and size of all water service connections for each individual lot.
 - (E) Attendant documents containing any additional information required to evaluate the proposed water distribution system.
- (6) Wastewater collection systems.
- (A) The layout, size and specific location of the existing and proposed wastewater lines, manholes, lift stations, and other related structures sufficient to serve the land uses and development as identified in the preliminary plat phase, in accordance with all current city standards, specifications, and criteria for construction of wastewater systems.

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- (B) Plan and profile drawings for each line in public rights-of-way or public utility easements, showing existing ground level elevation at centerline of pipe, pipe size and flow line elevation at all bends, drops, turns, and station numbers at fifty (50) foot intervals.
 - (C) Design details for manholes and special structures. Flow line elevations shall be shown at every point where the line enters or leaves the manholes.
 - (D) Detailed design for lift stations, package plants or other special wastewater structures.
 - (E) Attendant documents containing any additional information required to evaluate the proposed wastewater system, and complete an application for =state health department approval.
- (7) Street lighting. The location, size, type and description of street lights according to city standard details and specifications.
 - (8) Street signs. The location, size, type and description of street signs according to city standard details and specifications.
 - (9) Sidewalks. The location, size and type of sidewalks and pedestrian ramps according to city standard details and specification.
 - (10) Improvements for parks and other public and common areas, as identified and/or approved on the preliminary plat.
 - (11) The location, size and description of all significant trees (to remain and to be removed), and replacement trees to meet the requirements of this article.
 - (12) Landscaping and screening. The location, size and description of all landscaping and screening materials as required by this article.
 - (13) Design criteria. Final design criteria, reports, calculations, and all other related computations, if not previously submitted with the preliminary plat.
 - (14) Cost estimates. A cost estimate of each required improvement, prepared, signed and sealed by a professional engineer licensed to practice in the State of Texas.
- (d) Procedure. After all necessary approvals of the preliminary plat have been granted, construction plans, together with a completed application form and review fee, shall be submitted to the city engineer for approval.
 - (1) Construction plans may be submitted for review and approval simultaneously with a final plat, provided however that the final plat shall not be approved until the construction plans have been approved. If the construction plans and the final plat are to be reviewed simultaneously, a complete application for construction plans and a complete application for final plat must be submitted to the city simultaneously.
 - (2) City staff shall review all construction plan submittals for completeness at the time of application. If in the judgment of the city, the construction plan submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.

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- (3) The city engineer shall review the construction plans to insure compliance with this article, and other applicable city ordinances, codes, standards and specifications, and good engineering practices.
- (4) For projects located within the city's extraterritorial jurisdiction, the construction plans and attendant documents shall be provided to the county for review and approval. The applicant shall be responsible for any additional information required by the county for construction plan approval.
- (e) Approval. Within thirty (30) days of the date on which all required information has been accepted for review, the city engineer shall either approve or disapprove the construction plans.
 - (1) If the construction plans are disapproved, the city engineer shall notify the applicant, in writing, of disapproval and indicate the requirements for bringing the construction plans into compliance.
 - (2) If construction plans are approved, then the city engineer shall sign the cover sheet of the construction plans, returning one (1) signed copy to the applicant and retaining the other signed copy for city records.
 - (3) The developer should be aware that specific approvals from other agencies may be required.
 - (4) All improvements shown in the approved construction plans shall be constructed pursuant to and in compliance with the approved plans, except as otherwise specifically approved.
- (f) Revision. Where it becomes necessary, due to unforeseen circumstances, for corrections to be made to construction plans for which approval has already been obtained, the city engineer shall have the authority to approve such corrections when, in his/her opinion, such changes are warranted and also in conformance with city requirements. Approval of such changes agreed to between the developer and city engineer shall be noted by initialing and dating by both parties on the two (2) original signed copies of the construction plans.
- (g) Responsibility. Notwithstanding the approval of any construction plans by the council, commission or the city engineer, the developer and the engineer that prepares and submits such plans and specifications shall be and remain responsible for the adequacy of the design of all such improvements; and nothing in this article shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any design, plans and specifications submitted.

(Ordinance 4-12-3 (ord. 99), sec. 23, adopted 4/12/1999)

§ 9.02.039. Final plat.

- (a) Purpose. The final plat provides detailed graphic information and associated text indicating property boundaries, easements, streets, utilities, drainage, and other information required for the maintenance of public records of the subdivision of land.
 - (1) A final plat shall be required for all subdivisions of land.

- (2) The final plat shall conform to the approved construction plans and approved preliminary plat.
- (b) Format. The final plat shall be drawn on eighteen inch by twenty-four inch (18" x 24") mylar sheets at a scale of one (1) inch equals one hundred feet (1" = 100') with all dimensions labeled accurately to the nearest one tenth (1/10) of a foot. When more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one (1) inch equals four hundred feet (1" = 400') shall be attached to the plat.
- (c) Content. The final plat shall include all of the tract intended to be developed at one (1) time, and shall contain or have attached thereto:
- (1) General information.
- (A) The proposed name of the subdivision, which shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the city or within the extraterritorial jurisdiction of the city; provided however, that use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section number.
- (B) The date, scale, north point, and addresses of the owner of record, developer, registered public surveyor, and registered professional engineer if required, platting the tract. The engineer and surveyor shall affix their seals to the plat in conjunction with the signing of the certification requirements.
- (C) A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one (1) inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.
- (D) Identification and location of proposed uses and reservations for all lots within the subdivision.
- (E) The owner's names and the property lines of property within three hundred (300) feet of the subdivision boundary, together with the respective plat or deed references as determined by the most recent tax rolls.
- (F) Certification, signature and revision blocks as required by the city and county, including but not limited to the following:
- (i) Certification from a registered professional engineer and approval by the state health department (if applicable) that water satisfactory for human consumption is available in adequate supply at the time of submission, except that such certification is not required if the property will be served by the city water system.
- (ii) Certification from the county health district that a subdivision is located in an area which cannot reasonably be served by an organized wastewater collection system and that the use of septic tanks or other

means of disposal has been approved by the county health district. Said certificate shall show the limitations, if any, of such approval.

- (G) Lot area, width and depth, public utility and drainage easements, and setbacks shall conform to the requirements as established for the designated land use as set forth in this article.
- (2) Existing conditions.
- (A) The existing property lines, including bearings and distances, of the land being subdivided. Property lines shall be drawn sufficiently wide to provide easy identification.
 - (B) Areas delineating the regulatory one hundred (100) year floodplain, if applicable. This information must be certified by a registered professional engineer.
 - (C) The location, dimensions, names and descriptions of all existing and recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from current deed and plat records. The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown.
 - (D) Location of city limit lines and/or outer border of the city's extraterritorial jurisdiction, as depicted on the city's most recent base map, if either such line traverses the subdivision or is contiguous to the subdivision boundary.
- (3) Survey control information.
- (A) True bearings and distances to the nearest established street lines, official monuments, or existing subdivision corner which shall be accurately described on the plat and rotated to the state plane coordinate system. Using said system, X and Y coordinates shall be identified for four (4) property corners.
 - (B) The description and location of all permanent monuments or benchmarks, standard monuments, survey control points and lot pins.
 - (C) Suitable primary control points to which all dimensions, bearings and similar data shall be referenced. At least one (1) corner of the subdivision shall be located with respect to a corner of the original survey of which it is a part.
 - (D) Sufficient data shall be shown on the plat for each lot to prove mathematical closure.
- (4) Improvements.
- (A) The location, bearings, distances, widths, purposes and approved names of proposed streets, alleys, easements and rights-of-way to be dedicated to public use.

- (B) Streets. Provide complete curve data (delta, arc length, radius, tangent, point of curve, point of reverse curve, point of tangent, long chord with bearing) between all lot corner pins.
 - (C) Watercourses and easements. Provide distances to be provided along the side lot lines from the right-of-way line or the high bank of a stream. Traverse line to be provided along the edge of all major waterways in a convenient location, preferably along a utility easement if paralleling the drainage easement or stream.
 - (D) The property lines and number designations of all proposed lots and blocks, with complete bearings, distances and dimensions for front, rear and side lot lines. The surveyor shall certify that all lots meet the city's minimum requirements set forth herein.
 - (E) The use, property dimensions, names and boundary lines of all special reservations to be dedicated for public use, including sites for schools, churches, parks and open spaces; common ownership; or subsequent development.
 - (F) The location of building setback lines, as required by the city's zoning ordinance and indicated by dashed lines on the plat, and the location, dimensions, and descriptions of all required easements within the subdivision, intersecting, or contiguous with its boundaries or forming such boundaries.
 - (G) The proposed location of sidewalks for each street, to be shown as a dotted line inside the proposed right-of-way lines.
- (5) Support documents. The following supporting documents must accompany the final plat:
- (A) The developer shall include a copy of the approved application for floodplain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
 - (B) If a subdivision is located in an area served by any utility other than the city, the developer shall furnish a letter from such utility certifying their approval of the location of the utility easements shown on the plat and indicating the utility's intent to serve the property, except that said letters are not required if the easements conform to those approved on the preliminary plat.
 - (C) If the construction of all improvements needed to serve the subdivision is not completed prior to the filing of the plat for recordation then the developer must provide financial assurance for the completion of the remainder of those improvements in accordance with this article.
- (6) The applicant shall be responsible for verifying the accuracy of all data submitted.

- (d) Procedure. After approval of the preliminary plat and construction plans for a proposed subdivision, a final plat for that subdivision shall be submitted to the city for commission and city council approval before recordation.
- (1) A final plat may be submitted for review and approval simultaneously with construction plans, provided however that the final plat shall not be approved until the construction plans have been approved. If the final plat and construction plans are to be reviewed simultaneously, a complete application for final plat and a complete application for construction plans must be submitted to the city simultaneously.
 - (2) Legible prints, as indicated on the application form, shall be submitted at least thirty (30) days prior to the regular meeting of the commission at which the final plat is to be heard, along with the following:
 - (A) Completed application forms and the payment of all applicable fees.
 - (B) Any materials or documents required by the commission and/or council as a condition of preliminary plat approval.
 - (C) A letter requesting any variances from the provisions of this article, if not previously approved as part of the preliminary plat, and posted pursuant to the requirements this article.
 - (D) Two (2) copies of the deed restrictions or covenants, if such documents are to be used. These shall be filed for record in conjunction with the filing of the final plat.
 - (E) Certification from all applicable taxing authorities that all taxes due on the property have been paid.
 - (F) Performance and maintenance guarantees as required by the city.
 - (G) Any attendant documents needed to supplement the information provided on the final plat.
 - (3) For projects located within the city's extraterritorial jurisdiction, one (1) extra copy of the above-referenced items must be provided to the county for review and approval. The applicant shall be responsible for any additional information required by the county for final plat approval.
 - (4) City staff shall review all final plat submittals for completeness at the time of application. If, in the judgment of city staff, the final plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.
 - (5) Prior to the commission meeting at which the final plat is presented, city staff shall review the plat for consistency with city codes, policies and plans.
 - (6) City staff shall prepare a report analyzing the final plat submittal, as well as any comments received concerning the preliminary plat, and recommending the either approval or disapproval of the final plat. This report shall be available at least five (5) working days prior to the commission meeting.

- (7) If the developer chooses to withdraw the final plat, in writing, by noon of the third working day preceding the meeting commission, the submittal may appear on the next commission agenda after repayment of the applicable fees.
- (e) Notification. Public notification of final plats filed as part of an approved preliminary plat shall not be required.
- (f) Approval. The commission, after holding a public hearing, shall act on the request for final plat approval.
- (1) The commission, after holding public hearings in accordance with city ordinances and codes, shall act on the request for final plat approval, and shall make its recommendation to the city council. The failure of the commission to act within thirty (30) days of the final plat filing date shall be deemed an approval of the plat by the commission, except as otherwise agreed to by the developer. In such event, the developer may request the final plat be placed on the agenda of the city council for its consideration and approval. The failure of the city council to act within thirty (30) days of the date a final plat meeting all the requirements of this article is considered at a properly noticed meeting of the city council shall be deemed approval of the final plat.
 - (2) For final plats submitted simultaneously with a construction plans, the failure of the commission to act within thirty (30) days of the later of the filing date or the construction plan approval date shall be deemed an approval of the final plat, except as otherwise agreed to by the developer.
 - (3) The developer shall begin construction of the required public improvements or file a financial surety instrument for the improvements within six (6) months after final plat approval by the commission, or such approval of the final plat shall be void.
 - (4) Unless the final plat is recorded in the official county records within twelve (12) months after approval by the commission, such approval of the final plat shall be void, except that the developer may apply in writing to allow extension of approval prior to the end of such twelve (12) month period, stating just cause therefor, and the commission may grant an extension not to exceed one (1) year.
 - (5) Zoning of the tract, if applicable, that shall permit the proposed use, or any pending zoning amendment necessary to permit the proposed use, shall have been adopted by the council prior to approval of the final plat.
 - (6) The developer should be aware that specific approvals from other agencies may be required.
 - (7) The city engineer and developer's engineer must certify that the design standards of division 3 of this article have been complied with and that the development and improvements meet sound engineering practices.
- (g) Revision. If revision of the final plat is required by the commission or the city council, then the final plat shall not be recorded until the revised final plat has been resubmitted and approved by city staff for compliance with the commission's and the council's requirements.

(h) Recordation.

- (1) Prior to the recordation of the final plat, one (1) original copy of the final plat shall be submitted to the city for signatures, and:
 - (A) The final plat shall have been approved by the commission and council pursuant to the provisions of this article.
 - (B) All conditions of final plat approval established by the commission and the council shall have been determined to be complete by city staff.
 - (C) Construction plans for all required improvements shall have been approved by the city engineer.
 - (D) Fees-in-lieu of park land dedication as required by this article, if applicable, shall have been paid.
 - (E) Performance and maintenance guarantees for all required improvements shall have been established pursuant to this article.
 - (F) Copies of any agreements required providing for the proper and continuous operation, maintenance, and supervision of any facilities that are of common use or benefit which cannot be satisfactorily maintained, or which have been rejected for operation and/or maintenance, by an existing public agency shall be executed.
 - (G) Written acceptance of all improvements required by this article by the city engineer or, in lieu of acceptance, assurance of completion of said improvements pursuant to this article, shall be received by the city.
 - (H) Applicable fees pursuant to city ordinance shall be paid, including, but not limited to, all professional fees, engineer, and attorney fees incurred by the city for or with respect to the review, processing and approval of the application for the approval of the subdivision plat.
 - (I) Notes shall be added to the plat describing any variances approved by the commission.
- (2) City staff shall, upon determination that all provisions of this article have been satisfied, and all the above conditions have been met, obtain signatures certifying final plat approval by the chairperson of the commission, and the mayor, as attested to by the city secretary.
- (3) Once the original final plat has been certified by the chairperson of the commission and the mayor, city staff shall notify the developer that the original final plat is ready for reproduction.
- (4) The developer, at his/her own expense, shall make two (2) photographic mylar copies of the original, signed final plat, and return the photographic mylar copies and the original final plat to the city engineer for recordation.
- (5) If the land area represented by the subdivision is located outside the corporate limits of the city on the date of its filing for recordation with the official county records, then it must be approved by the commissioners court of the county prior

to recordation. It shall be the responsibility of the developer to be familiar with the process, procedures, and requirements necessary to secure county approval. Such approval shall be evidenced by the signature of the statement of certification by the county judge.

- (6) City staff shall, after the photographic mylar copies and the original final plat have been duly recorded in the official county records, return the original final plat to the developer within five (5) working days by notifying the developer that the original final plat is available for pick-up at the office of the city engineer.
- (7) The city shall keep one (1) photographic mylar copy of the original approved final plat on file as public record.
- (i) Responsibility. Notwithstanding the approval of any final plat by the council, commission or the city engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this article shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

(Ordinance 4-12-3 (ord. 99), sec. 24, adopted 4/12/1999)

§ 9.02.040. Amended plats.

- (a) Purpose. An amended plat that meets all of the informational requirements set forth in this article may be approved and recorded by the city without vacation of the preceding plat, without a public hearing, and without approval of other lot owners within the platted subdivision provided that any person with a vested interest affected by the plat amendment signs the plat and application; and that the purpose of the amended plat is:
 - (1) To correct an error in any course or distance shown on the preceding plat; or
 - (2) To add any course or distance that was omitted on the preceding plat; or
 - (3) To correct an error in the description of the real property shown on the preceding plat; or
 - (4) To indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments; or
 - (5) To show the proper location or character of any monument which has been changed in location, character, or shown incorrectly on the preceding plat; or
 - (6) To correct any other type of scrivener or clerical error or omission as previously approved by the commission and council; such errors and omissions may include, but are not limited to: lot numbers, acreage, street names, and identification of adjacent recorded plats; or
 - (7) To correct an error in courses and distances of lot lines between two (2) adjacent lots where lot owners join in the application for an amended plat and neither lot is abolished, provided that such amendment does not attempt to remove recorded

covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat; or

- (8) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; or
 - (9) To relocate one (1) or more lot lines between one (1) or more adjacent lots where the owner or owners of all such lots join in the application for the amended plat, provided that such amendment does not attempt to remove recorded covenants or restrictions, or increase the number of lots.
- (b) Format. The format of an amended plat shall be the same as the format for a final plat.
 - (c) Content. The content of a amended plat shall be the same as the content requirements for a short form final plat.
 - (d) Procedure.
 - (1) The amended plat may be submitted without re-approval of a preliminary plat or construction plans. The amended plat, prepared by a surveyor, and engineer if required, and bearing their seals shall be submitted to the city for approval before recordation of the plat.
 - (2) Legible prints, as indicated on the application form, shall be submitted to the city along with the following:
 - (A) Completed application forms and the payment of all applicable fees.
 - (B) Certification from all applicable taxing authorities that all taxes due on the property have been paid.
 - (C) Any attendant documents needed to supplement the information provided on the plat.
 - (D) The city shall require the following note on the amended plat: This subdivision is subject to all general notes and restrictions appearing on the plat of _____, Lot(s) _____, recorded at Cabinet _____, Slide _____ of the Plat Records of _____ County, Texas.
 - (e) Notification. Public notification and public hearings shall not be required for an amended plat.
 - (f) Approval. The city engineer shall approve any amended plat meeting the requirements of this article within thirty (30) days of receipt of a complete submittal. However, if in the city engineer's determination, the amended plat does not satisfy this article, the city engineer may require the plat to be processed in accordance with the final plat procedures of this article.
 - (g) Expiration. Approval of an amended plat shall expire if said plat is not recorded in the plat records of the county within six (6) months of city approval.
 - (h) Recordation. Recordation of an amended plat shall follow the same recordation provisions of a final plat.

- (i) Responsibility. Notwithstanding the approval of any amended plat by the city engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this article shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

(Ordinance 4-12-3 (ord. 99), sec. 25, adopted 4/12/1999)

§ 9.02.041. Short form final plats.

- (a) Purpose. The provision of adequate data concerning land use, utility requirements, traffic impact, streets, easements and dedications is vital to ensure the continued health, safety and welfare of the city's residents. Recognizing that the significance of this data is reduced for the small scale projects that are most heavily impacted by the burden of producing this data, the city allows alternate procedures for simple resubdivisions, lot splits, and the platting of existing development and of land proposed for site development where public improvements are not required.
- (1) Applicants for subdivisions or resubdivisions creating no more than four (4) new lots may follow the procedure set forth below provided that the subdivision meets all of the following criteria:
 - (A) The city shall certify that the proposed subdivision meets all the requirements of the short form final plat.
 - (B) No new public street shall be necessary for each lot to access a public street.
 - (C) Each of the lots is contiguous with at least one (1) of the other lots in the subdivision for a distance of at least fifty (50) feet.
 - (D) No off-site improvements to the city's infrastructure are determined to be necessary by the city engineer.
 - (E) No off-site drainage improvements are determined to be necessary by the city engineer.
 - (2) The commission and council may require the standard final plat procedures outlined this article, if the city determines that the plat is inconsistent with any element of the master plan, or any established city ordinances, codes or policies.
- (b) Format. The format of the short form final plat shall correspond with the format for final plats as required by this article.
- (c) Content. The content of the short form final plat shall correspond with the content for final plats as required by this article, except that:
- (1) Construction plans may not be required.
 - (2) The city may permit omission of any informational requirements that are determined by the city to place an excessive burden on the applicant, including, but not limited to contours, centerlines of existing watercourses, etc.

- (3) The city shall require the following note on the final plat: This subdivision is subject to all general notes and restrictions appearing on the plat of _____, Lot(s) _____, recorded at Cabinet _____, Slide _____ of Plat Records of _____ County, Texas.
- (d) Procedure. The procedure for review and approval of a short form final plat shall follow the procedure for final plats, except that:
- (1) The short form final plat may be submitted without approval of a preliminary plat or construction plans. The plat, prepared by a surveyor, and engineer if required, and bearing their seals shall be submitted to the commission for approval before recordation of the plat.
 - (2) Legible prints, as indicated on the application form shall be submitted at least thirty (30) days prior to the regular meeting of the commission along with the following:
 - (A) Completed application forms and the payment of all required fees.
 - (B) Two (2) copies of the deed restrictions or covenants, if such documents are to be used. These shall be filed for record in conjunction with the filing of the plat.
 - (C) Certification from all applicable taxing authorities that all taxes due on the property have been paid.
 - (D) Notification materials as required herein.
 - (E) A petition requesting annexation, if applicable.
 - (F) Any attendant documents needed to supplement the information provided on the plat.
 - (3) For projects located within the city's extraterritorial jurisdiction, one (1) extra copy of the above-referenced items must be provided to the county for review and approval. The applicant shall be responsible for any additional information required by the county for short form final plat approval.
- (e) Notification. Notification procedures for a short form final plat shall be the same as those identified for a concept plan.
- (f) Approval. The approval process of a short form final plat shall be the same as the approval of a final plat.
- (g) Revision. The revision process of a short form final plat shall be the same as the revision process described for a final plat.
- (h) Recordation. The recordation procedures of a short form final plat shall be the same as the procedures for a final plat.
- (i) Responsibility. Notwithstanding the approval of any short form final plat by the commission, council or city engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this article shall be deemed or construed to relieve or waive the

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responsibility of the developer or his/her engineer for or with respect to any plat submitted.

(Ordinance 4-12-3 (ord. 99), sec. 26, adopted 4/12/1999)

§ 9.02.042. Vacation of undeveloped subdivision.

When no lots on a plat of subdivision have been sold, the developer may request the vacation of the plat prior to the time that the improvements covered by the guarantees are installed, and when such plat is vacated, all fiscal sureties shall be returned to the developer.

(Ordinance 4-12-3 (ord. 99), sec. 27, adopted 4/12/1999)

§ 9.02.043. through § 9.02.070. (Reserved)

Division 3

Design Standards

§ 9.02.071. Generally.

- (a) Additional regulations. In addition to the requirements established by this article, all development within the city limits shall be designed so as to comply with the intent and provisions of the zoning ordinance, building and housing codes, master plan, regulations of the state department of transportation and the state department of health [department of state health services], and any other applicable law or regulation adopted by a unit of federal, state or local government; and all development within the extraterritorial jurisdiction of the city shall comply with this article and all other applicable laws and regulations adopted by a unit of federal, state or local government.
- (b) Standards in general. The minimum design standards as contained herein shall provide the basic criteria for evaluating proposed concept plans, preliminary plats, construction plans, final plats, amended plats, short form final plats, and other development or improvements subject to this article. The city may, however, establish reasonable design requirements in excess of these established minimum standards, or grant variances from those established minimum standards, where by reason of exceptional topographic, cultural, historic, archaeological, hydrologic, or other physical conditions of the property to be developed or of an adjacent tract, the strict adherence to these standards will result in an inappropriate subdivision design or cause unnecessary hardship.
- (c) Coordinated design. The quality of life and the community in the Holland urban area is dependent on the quality of design of the individual developments in which people live and work. Good community design requires the coordination of the efforts of each developer of land within the urban area. It is intended that the urban area shall be designed as a group of integrated residential neighborhoods and appropriate commercial, industrial and public facilities. Therefore, the design of each development shall be prepared in accordance with the applicable principles established by the master plan for land use, circulation, community facilities and public utility services and in accordance with the following general principles:

- (1) The neighborhood, as a planning unit, is intended as an area principally for residential use, and of a size that can be served by one (1) elementary school. Space for recreational, educational and shopping facilities to serve the residents of the neighborhood should be provided and designed as an integral part of each neighborhood. The size of lots and blocks should be designed to provide for adequate water and wastewater service, traffic circulation, light, air, open space, landscaping and off-street parking. The arrangement of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees should be preserved to the greatest extent possible. The system of sidewalks and roadways and the lot layout should be designed to take advantage of the visual qualities of the area.
- (2) The components of the street system should in different degrees serve the separate purposes of access to property and safe, efficient movement of traffic. Land use types should be served by roadways whose capacity increases in proportion to the traffic generation of the land use. Design and location of points of access to property should be appropriate to the volume and speed characteristics of traffic utilizing the intersection.
- (3) An open space system throughout the urban area should provide a range of active and passive recreation opportunities. Park, open space and recreation facilities should be located with sensitivity to user population, natural features, traffic generation, and nearby land use.
- (4) Land use arrangement and design should minimize the difference in intensity between adjacent uses in order to provide for the provision of water, wastewater and roadways sufficient to serve the proposed densities and provide for compatible neighboring developments. Step-down patterns of use surrounding major activity centers, combined with buffering techniques, should ensure that residential densities are compatible with each other, and that residential development is not adversely impacted by higher intensity uses.
- (5) Public utilities and infrastructure should be provided within all subdivisions in order to ensure the health, safety and well-being of the public. Utility capacity should be sufficient to meet accepted standards of service to reasonably anticipated development. Where excess capacity in utility lines or facilities within a subdivision will further the efficient and desirable extension of utilities to adjacent property, equitable provision of such capacity is essential to the orderly growth of the urban area.
- (6) Construction of water, wastewater, drainage, gas, electric, telephone and cable television utilities that require utility cuts of a public street shall be repaired pursuant to applicable city ordinances.

(Ordinance 4-12-3 (ord. 99), sec. 40, adopted 4/12/1999)

§ 9.02.072. Drainage improvements.

- (a) Purpose. The drainage improvement provisions contained herein are deemed necessary for the following reasons:

- (1) Waterways and their associated watersheds within the city's territorial jurisdiction represent significant and irreplaceable recreational and aesthetic resources and contribute directly to the city's public health.
 - (2) The continued economic growth of the city is dependent on an adequate quality and quantity of stormwater runoff, a pleasing natural environment, recreational opportunities in close proximity to the city as well as the protection of people and property from the hazards of flooding.
 - (3) All watersheds within the city's jurisdiction, and especially those with abrupt topography, sparse vegetation, and thin and easily disturbed soil, are vulnerable to flooding due to unregulated development activities.
 - (4) All watersheds within the city's jurisdiction are undergoing development or are facing development pressure.
 - (5) If watersheds within the city's jurisdiction are not developed in a sensitive and innovative manner, their water resources, natural environment, and recreational characteristics may be irreparably damaged.
 - (6) The city should regulate all drainage within the city's jurisdiction for the public benefit and safety, including both the existing and future generations of citizens of the city, as well as for downstream users of the each waterway within the city's territorial jurisdiction.
- (b) Policy.
- (1) All drainage improvements within the city's jurisdiction shall be designed in accordance with good engineering practices sufficient to prevent flooding outside of designated flood and drainageways, the flooding of property developed for buildings and structures, an to prevent an increase of the volume or speed of water downstream.
 - (2) The commission shall not recommend approval or approve any plat or plan which does not meet the minimum requirements of this article in making adequate provisions for control of the quantity of stormwater runoff to protect the public health, safety and property, and benefit the present and future owners of property within the development, other lands within the city and neighboring areas.
 - (3) It shall be the responsibility of the developer to design and construct a system for the collection and transport of all stormwater runoff flowing into, and generated within the development, in accordance with:
 - (A) The requirements of this article.
 - (B) Good engineering practices.
 - (C) Approved engineering plans for construction.
 - (D) The regulations and principles of law established pursuant to the Texas Water Code.

- (4) In general, drainage improvements shall be designed and constructed in a manner which promotes the development of a network of both natural and built drainageways throughout the community and so as to:
- (A) Retain natural floodplains in a condition that minimizes interference with floodwater conveyance, floodwater storage, aquatic and terrestrial ecosystems, and ground and surface water.
 - (B) Reduce exposure of people and property to the flood hazards and the nuisances associated with inadequate control of stormwater runoff.
 - (C) Systematically reduce the existing level of flood damages.
 - (D) Ensure that corrective works are consistent with the overall goals of the city.
 - (E) Minimize erosion and sedimentation problems and enhance water quality.
 - (F) Protect environmental quality, social well-being and economic stability.
 - (G) Plan for both the large flooding events and the smaller, more frequent flooding events by providing both major and minor drainage systems.
 - (H) Minimize future operational and maintenance expenses.
 - (I) Reduce exposure of public investment in utilities, streets and other public facilities (infrastructure).
 - (J) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public.
 - (K) Acquire and maintain a combination of recreational and open space systems utilizing floodplain lands.

(Ordinance 4-12-3 (ord. 99), sec. 41, adopted 4/12/1999)

§ 9.02.073. Transportation improvements.

- (a) Purpose. The planning for a thoroughfare system is essential for the continued efficient movement of people and goods, and the master plan shall serve as a guide for the location and scale of future collector and arterial streets. The precise alignment of thoroughfares included in the plan may be varied to allow adjustments that increase the compatibility of the right-of-way with natural or man-made features such as steep slopes, waterways, wildlife habitats, neighborhoods, historic structures or existing roadways.
- (b) Policy.
- (1) All transportation improvements including streets, driveways, sidewalks, bikeways, traffic control, and parking areas within the city's jurisdiction shall be designed in accordance with this article.
 - (2) Street layout. Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade, and location of each shall conform

to the comprehensive plan of the city and professional urban planning and shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire neighborhood.

- (3) Relation to adjoining street system. Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.
- (4) Projection of streets. Where adjoining areas are not subdivided the arrangements of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided areas.
- (5) Street jogs. Whenever possible, street jogs with centerline offsets of less than 125 feet shall be avoided.
- (6) Street intersections. Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography.
- (7) Dead-end streets. Dead-end streets shall be prohibited except as short stubs to permit future expansion.
- (8) Cul-de-sacs. In general, cul-de-sacs shall not exceed 600 feet in length, and shall have a turnaround of not less than 100 feet in diameter in residential areas, and not less than 100 feet in diameter in commercial and industrial areas.
- (9) Marginal access streets. Where a subdivision has frontage on an arterial street, there shall be provided a marginal access street on both sides or on the subdivision side of the arterial street, if the arterial street borders the subdivision, unless the adjacent lots back up to the arterial street, or unless the commission determines that such marginal access streets are not desirable under the facts of a particular case for adequate protection of the lots and separation of through and local traffic.
- (10) Streets on comprehensive plan. Where a subdivision embraces a street as shown on a comprehensive plan of the city, such street shall be platted in the location and of the width indicated by the comprehensive plan.
- (11) Minor streets. Minor streets shall be laid out so as to discourage their use by through traffic.
- (12) Pavement widths and rights-of-way. Pavement widths, which shall be curb back to curb back, and rights-of-way shall be as follows:
 - (A) Arterial streets shall have a right-of-way width of at least 80 feet, with a pavement width of at least 60 feet.
 - (B) Collector streets shall have a right-of-way of at least 70 feet and a pavement width of at least 44 feet.
 - (C) Intermediate streets shall have a right-of-way of at least 60 feet and a pavement width of at least 36 feet.

- (D) Minor streets shall have a right-of-way of at least 50 feet with a pavement width of at least 31 feet.
 - (E) Nonresidential marginal access streets shall have a right-of-way width of at least 50 feet and a pavement width of at least 36 feet.
 - (F) Residential marginal access streets shall have a right-of-way width of at least 50 feet and a pavement width of at least 31 feet.
- (13) Pavement and rights-of-way width for adjacent streets.
- (A) The subdivider shall dedicate a right-of-way of 80 feet in width for new adjacent arterial streets, and 36 feet of such right-of-way shall be paved.
 - (B) New adjacent collector, minor or marginal access streets shall conform to subsection (b)(12) of this section.
 - (C) Where the proposed subdivision abuts upon an existing street or half-street that does not conform to subsection (b)(12) of this section, the subdivider shall dedicate right-of-way sufficient to make the full right-of-way width conform to subsection (b)(12), and there shall be paved so much of such right-of-way as to make the full pavement width comply with subsection (b)(12). Before any pavement is laid to widen existing pavement, the existing pavement shall be cut back 2 feet to assure an adequate sub-base and pavement joint.
- (14) Curbs. Curbs shall be installed by the subdivider on both sides of all interior streets, and on the subdivision side of all streets forming part of the boundary of the subdivision.
- (c) Street lighting. Street lighting shall be installed by the developer for all new streets within the jurisdiction of the city, and shall be designed and constructed in accordance with city standard details and specifications.
 - (d) Street signage. Street signs shall be installed by the developer at all intersections within and immediately adjacent to a proposed development, and shall be designed and constructed in accordance with city standard details and specifications.
 - (e) Sidewalks. Sidewalks shall be installed by the developer on both sides of all streets within and immediately adjacent to a proposed development, and shall be designed and constructed in accordance with city standard details and specifications.

(Ordinance 4-12-3 (ord. 99), sec. 42, adopted 4/12/1999)

§ 9.02.074. Water utility improvements.

- (a) Policy. Developers shall be responsible for providing an approved public water supply system consistent with the master plan, this article, good engineering practices, the rules and regulations of the city applicable to water utility service, the rules and regulations of any other entity providing or to provide water to the development if more stringent than those of the city, and the rules and regulations of the State of Texas and the agencies thereof.

- (1) Where an approved public water supply or distribution main is within reasonable distance of the subdivision as determined by the commission, but in no case less than one-half (1/2) mile away and connection to the system is both possible and permissible, the developer shall be required to connect to the system and to bear the cost of connecting the development to such existing water supply. In some instances, the city may request that the main water connection be oversized or rerouted to suit future water system improvements in that area.
 - (2) The developer shall, consistent with all existing ordinances, make a pro-rata contribution to funding of needed storage facilities, treatment facilities, and specific distribution lines as determined necessary by the city. Under extraordinary circumstances, these provisions may be varied with the approval of the council and commission.
- (b) Design.
- (1) The design and construction of a public water system shall:
 - (A) Comply with regulations covering extension of public water systems adopted by the ==state natural resources conservation commission;
 - (B) Be of sufficient size to furnish adequate domestic water supply and fire protection services to all lots, and to conform with the requirements of the city for and with respect to water utility and supply systems, lines, pipes, pressure, storage, etc.;
 - (C) Be located where maintenance can be accomplished with the least interference with traffic, structures and other utilities;
 - (D) Be designed in an effort to eliminate the need for booster pumps or other similar devices;
 - (E) Not propose water mains less than eight (8) inches in diameter, with consideration for six (6) inch pipe in cul-de-sacs and looped streets;
 - (F) Be acceptable, without penalty, to the state fire insurance commission. To that end, the following fire flows shall be required, subject to the resources of the city:
 - (i) Principal mercantile and industrial areas: 3,000 gpm;
 - (ii) Light mercantile areas: 1,500 gpm;
 - (iii) Congested residential areas: 750 gpm;
 - (iv) Scattered residential areas: 500 gpm;
 - (G) Include fire hydrants:
 - (i) At a minimum spacing of 600 feet for residential developments;
 - (ii) Within 300 feet of all sides of a nonresidential development;
 - (iii) At the end of all cul-de-sac streets, or similar dead-end water distribution lines; and

- (iv) For fire flows calculated with twenty (20) pound residual pressure;
 - (H) Include valves on each fire hydrant lead, at each intersection of two (2) or more mains, and valve spacing so that no more than 30 customers will be without water during a shutoff;
 - (I) Be designed and constructed in accordance with city standard details and specifications; and
 - (J) Be designed and constructed to comply with all applicable rules, regulations and policies of the entity that will provide water service to the development.
- (2) The design of private water systems, if authorized, shall include backflow prevention assemblies for domestic and fire protection systems that are directly or indirectly connected to the city's potable water distribution system.

(Ordinance 4-12-3 (ord. 99), sec. 43, adopted 4/12/1999)

§ 9.02.075. Wastewater utility improvements.

- (a) Policy. Developers shall be responsible for providing an approved wastewater system, consistent with the master plan, this article and the rules and regulations of the entity providing or to provide wastewater service to the development, throughout the development, such that all lots, parcels, or tracts of land will be capable of connecting to the wastewater system except as otherwise provided herein.
 - (1) Where an approved public wastewater collection main is within reasonable distance of the subdivision as determined by the commission, but in no case less than one-half (1/2) mile away and connection to the system is both possible and permissible, the developer shall be required to connect to the system and to bear the cost of connecting his development to such existing wastewater system. In some instances, the city may request that the main wastewater connection be oversized or rerouted to suit future wastewater system improvements in that area.
 - (2) The developer shall, consistent with all existing ordinances, make a pro-rata contribution to funding of needed lift station facilities, treatment facilities, and specific collection lines as determined necessary by the city. Under extraordinary circumstances, these provisions may be varied with the approval of the council and commission.
- (b) Design. The design and construction of wastewater collection systems, lift stations, inverted siphons and septic systems shall comply with regulations covering extension of public wastewater systems, and other applicable regulations, adopted by the ==state natural resources conservation commission and the ==state department of health. Under extraordinary circumstances, these provisions may be varied with the approval of the council and commission.
 - (1) All new public wastewater systems shall be designed and constructed to operate on a gravity flow basis by taking advantage of natural topographic conditions and thereby reducing the need for lift stations and force mains.

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- (2) Flow determinations should include generally accepted criteria for average daily flow, inflow and infiltration, peaking factors, minimum slopes and minimum flow velocities.
- (3) The minimum size of any public wastewater line will be six (6) inches in diameter.
- (4) Public wastewater lines shall be located where maintenance can be accomplished with the least interference with traffic, structures and other utilities. Minimum separation distance from water utilities shall be in accordance with the rules adopted by the state natural resource conservation commission.
- (5) Manholes shall be located so as to facilitate inspection and maintenance, including intersections, horizontal alignment changes, vertical grade changes, change in pipe size or material, and force main discharge points.
- (6) All wastewater appurtenances shall be designed and constructed in accordance with city standard details and specifications.
- (7) All wastewater systems shall be designed and constructed to comply with all applicable rules, regulations and policies of the entity that will provide wastewater service to the development.

(Ordinance 4-12-3 (ord. 99), sec. 44, adopted 4/12/1999)

§ 9.02.076. Blocks and lots.

- (a) Except as provided otherwise in this article, the terms and provisions of the zoning ordinance establishing the minimum lot area, width, setback line, side yard and rear yard requirements for each zoning or use category are incorporated herein by reference. Such regulations and standards shall be applied to property within the city limits based upon the zoning of the property and to property within the extraterritorial jurisdiction based on agreement of, and the land use proposed by, the developer.
- (b) Blocks.
 - (1) The length, width, and shape of blocks shall meet the following standards:
 - (A) Provide adequate building sites (lots) suitable to the special needs of the type of use designated on the plat;
 - (B) Accommodate lots of the size and dimensions required by this section;
 - (C) Provide for convenient access, circulation, control, and safety of street traffic;
 - (D) Minimize reductions in the capacity of adjacent streets insofar as possible by reducing the number of turning movement conflicts;
 - (E) Provide an appropriate response to the limitations and opportunities of topography; and

- (F) Increase the ability of building sites (lots) to receive or to be protected from solar gain as the season requires in order to improve utility efficiency and increase the livability of each lot.
- (2) Residential blocks shall not exceed one thousand three hundred (1,300) feet nor be less than five hundred (500) feet in length, except as otherwise provided for herein.
- (3) Blocks along arterial streets shall not be less than one thousand six hundred (1,600) feet.
- (4) The width of blocks shall be sufficient to accommodate two (2) tiers of lots with minimum depth as required by this section; exceptions to this width shall be permitted in blocks adjacent to major streets, railroads, waterways, or other topographical features prohibiting a second lot tier.
- (5) The commission may, at the preliminary plat phase, require the dedication of an easement or right-of-way not less than ten (10) feet wide bisecting the center of any block in excess of eight hundred (800) feet in length to accommodate utilities, drainage facilities, and/or pedestrian access to greenbelts or park areas.
- (6) Blocks shall be identified on each plat by consecutive adjacent numbers within each subdivision and portion thereof. Blocks forming a continuation of a previous subdivision block shall continue the block number.
- (c) Lots. All land area within the boundaries of the subdivision or resubdivision except that area specifically dedicated as public right-of-way for any purpose shall be designated as a lot.
 - (1) The lot area, width, depth, building setback line, front, side, street side and rear yard requirements for each lot shall be as follows:

| | | Minimum |
|-----|---------------------|--------------------|
| (A) | Lot area | 11,000 square feet |
| (B) | Front setback | 25 feet |
| (C) | Side street setback | 15 feet |
| (D) | Side yard | 7 feet |
| (E) | Rear setback | 25 feet |
| (F) | Lot width | 60 feet |

- (G) Maximum depth of a lot shall not exceed 2.5 times the width of the lot;
- (H) In the event the city adopts a zoning ordinance such requirements and standards as provided in the zoning ordinance shall, in the event of a conflict with the above, govern and control within the corporate limits based on the zoning of the property; and

- (I) Within the extraterritorial jurisdiction, such requirements and standards may, as appropriate based on the uses proposed by the developer, be based on the agreement of, and the land use proposed by, the developer.
- (2) The minimum lot size for all lots to be served by a central sanitary sewer system shall be 11,000 square feet, and the minimum lot size for lots to be served by septic tank shall be 22,000 square feet.
- (3) Each lot shown on a plat shall be clearly designated by a number located within the boundaries of the lot. The boundaries of each lot shall be shown by bearing and distance in relation to the monuments found or established on the ground in conformance with this article.
- (4) For developments within the corporate limits of the city, the proposed use for each lot shall be indicated on the plat, and in accordance with the city's zoning ordinance, as currently amended.
- (5) For developments outside the corporate limits of the city, but within the city's extraterritorial jurisdiction, the proposed use for each lot shall be indicated on the plat, and consistent with similar uses as defined in city's zoning ordinance, as currently amended.
- (6) All lots shall be rectangular, except when the street alignment is curved, in order to conform with other provisions of this article.
- (7) No lot shall have a corner intersection of less than forty-five (45) degrees.
- (8) The ratio of average depth to average width shall not exceed two and one-half to one (2.5:1) nor be less than one and one-half to one (1.5:1) unless the lot is at least one and one-half (1.5) times the required lot size, unless both the depth and width of the lot exceed the minimums required in this article, and the city finds that the proposed lot dimensions are consistent with surrounding development and the master plan.
- (9) All lots shall face and have contiguous frontage on a usable, dedicated public road right-of-way except lots within a PUD which may have similar frontage on a private street under common ownership. The extent of this frontage (front line) shall conform to the minimum lot width requirements set forth in the city's zoning ordinance.
- (10) Except as otherwise approved through the granting of a variance, all lots shall face a similar lot across the street.
- (11) Lot lines common to the street right-of-way line shall be the front line. Side lot lines shall project away from the front line at approximately at right angles to street lines and radial to curved street lines. The rear line shall be opposite and approximately parallel to the front line.
 - (A) The length and bearing of all lot lines shall be indicated on the plat; and
 - (B) Wherever feasible, lots arranged such that the rear line of a lot or lots is also the side line of an adjacent lot shall be avoided. When this occurs, ten

- (10) feet shall be added to the minimum lot width and the side building line adjacent to the rear yard of another lot.
- (12) Lot area, width, and depth shall conform to the requirements as established in the zoning ordinance. For developments outside the corporate limits of the city, but within the city's extraterritorial jurisdiction, lot size shall be consistent with similar uses as defined in the zoning ordinance.
- (13) Double frontage lots.
- (A) Residential lots shall not take access on two (2) non-intersecting local and/or collector streets; and
- (B) Residential lots adjacent to an arterial street shall also have frontage on a local street. Vehicular access to these lots shall be from the local street only. Nonresidential lots with double frontage shall have offset access points to inhibit cut-through traffic.
- (14) Reverse frontage lots. Residential lots with rear yards facing highways, access roads, and major or minor arterial streets should be at least 130 feet in depth so as to provide adequate rear yard area for screening and buffering of the rear of the structure, as required by this article.
- (15) Corner lots.
- (A) Lots having frontage on two (2) or more intersecting streets shall be classified as corner lots;
- (B) Corner lots adjacent to streets of equal classification shall have only one (1) access driveway on either of the intersecting streets, except as otherwise approved by the commission;
- (C) Corner lots adjacent to streets of unequal classification shall access the lower classification street only and only one (1) drive approach shall be allowed, except as otherwise approved by the commission;
- (D) Corner lots shall contain at least one (1) street side building setback line; and
- (E) Corner residential lots shall be ten (10) feet wider than the average interior lot on the same block.
- (16) Building setback lines.
- (A) Each lot shall have a building setback line, which runs parallel to the property line.
- (B) The front and rear building setback lines shall run between the side lot lines.
- (C) The side building setback lines, and street side building setback lines for corner lots, shall extend from the front building setback line to the rear building setback line.

- (D) The building setback line for each designated lot shall conform to the city's zoning ordinance, as currently amended. For developments outside the corporate limits of the city, but within the city's extraterritorial jurisdiction, building setback lines shall be consistent with similar uses as defined in the zoning ordinance.
- (E) All building setback lines shall be indicated on the subdivision plat. For nonresidential developments, a note stating that all building setback lines shall be in accordance with the city's current zoning ordinance shall be placed on the subdivision plat.
- (17) Yard areas. The area between the property line and the front, side or rear building setback line shall be the required front, side and rear yard areas, respectively.
- (A) No structure or impervious construction shall be allowed in the front yard area except for fences, driveways, sidewalks, utility distribution lines and appurtenances within dedicated easements and rights-of-way, and/or drainage structures; and
- (B) No structures or impervious construction shall be allowed in required side or rear building setback areas except for the following accessory structures on one (1), two (2) or three (3) family residential lots:
- (i) Swimming pools located at least three (3) feet from the property line and screened by a six (6) foot tall privacy fence;
 - (ii) Playscapes not taller than nine (9) feet above mean grade, located at least three (3) feet from the property line and screened by a six (6) foot tall privacy fence;
 - (iii) Satellite dishes or telecommunications devices not taller than nine (9) feet above mean grade, located at least three (3) feet from the property line and screened by a six (6) foot tall privacy fence; and/or
 - (iv) Driveways to side entry garages.
- (18) Lot access.
- (A) A minimum of one (1) all-weather access area (either individually, or common to more than one lot) or driveway shall be provided for lot connecting the lot to an existing or proposed dedicated public street. An exception may be made for lots within a planned unit development which may have similar access to a private street. Each lot shall front upon a public street or, in the case of a planned unit development, have access by way of access easement sufficient to meet the requirements of the Standard Fire Prevention Code.
- (B) All driveway approaches shall be constructed to conform with the provisions of this article, and the city standard details and specifications.
- (19) Lot numbering.

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- (A) All lots are to be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary plat.
- (B) Any lot(s) being resubdivided shall be renumbered utilizing the original lot number, followed by a letter designation starting with "A".
- (20) Lot easements. Public utility easements on side and rear lot lines shall be required as needed to accommodate public utility and drainage appurtenances, and as specified in this article.
- (21) Lot drainage. Lot drainage shall be in conformance with the requirements of this article.

(Ordinance 4-12-3 (ord. 99), sec. 45, adopted 4/12/1999)

§ 9.02.077. Easements.

- (a) All existing and proposed easements, safety lanes, and rights-of-way shall be clearly indicated on the plat or plan, as well as an indication to the use of each easement or right-of-way.
- (b) No permanent structure may be placed in or over any easement or right-of-way except a structure whose use and location are necessary to the designated use of the right-of-way or easement or which otherwise will not affect the use, maintenance or repair of such easement.
- (c) The width and alignment of all easements or rights-of-way to be dedicated shall be determined by the city engineer, any applicable utility provider and the commission, and approved by the commission, and shall be accompanied by a notarized statement of dedication on the plat.
- (d) Easements shall be established and dedicated for all public utility and drainage appurtenances, including common access areas, and other public uses requiring dedication of property rights.
- (e) Insofar as practicable, easements shall not be centered on a property line, but shall be located entirely on one (1) side of a lot.

(Ordinance 4-12-3 (ord. 99), sec. 46, adopted 4/12/1999)

§ 9.02.078. Landscaping and screening.

- (a) Purpose. For the purpose of providing for the orderly, safe, attractive and healthful development of land located within the community and promoting the health, safety and general welfare of the community, it is deemed necessary to require the installation and maintenance of landscaping elements and other means of site improvements in developed properties.

- (b) Requirements. A minimum percentage of the total lot area of property on which development occurs after the effective date of this article, shall be devoted to landscape development in accordance with the following schedule.
- (1) Single-family, 20%.
 - (2) Multi-family structures, 20%.
 - (3) Office and professional uses, 15%.
 - (4) Commercial uses, 15%.
 - (5) Industrial or manufacturing, 10%.
- (c) Areas landscaped. The landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty percent (50%) of the required landscaped area and plantings shall be installed between the front property lines and the building being constructed. Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the commission. Landscaping placed within public rights-of-way shall not fulfill the minimum landscape requirements by this section.
- (d) Screening requirements.
- (1) In addition to the landscaping requirements of this section, the screening of off-street parking, loading spaces and docks, refuse and outside storage areas, satellite dishes larger than 18 inches in diameter, antennas, mechanical equipment, and the rear of structures on reverse frontage lots must be screened from view from the street or public rights-of-way.
 - (2) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof.
 - (3) Privacy fences.
 - (A) All fences along a common property boundary shall be less than or equal to six (6) feet in height.
 - (B) Fences less than or equal to eight (8) feet in height shall be allowed for impeding access to hazardous facilities including, but not limited to, electrical substations, swimming pools and chemical or equipment storage yards; where the slope of a line drawn perpendicular to the fence line averages twenty percent (20%) or more on either side of the fence over a distance no less than fifteen (15) feet; or where the fence forms a continuous perimeter around a subdivision and the design of said perimeter fence is approved by the commission.
 - (C) Fences less than or equal to three (3) feet in height shall be allowed in front yards for lots one (1) acre in size, or less, or as otherwise approved by the commission.
 - (D) No fence or other structure more than thirty percent (30%) solid or more than three (3) feet high shall be located within twenty-five (25) feet of the intersection of any rights-of-way.

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- (E) All fences shall be constructed to maintain structural integrity against natural forces such as wind, rain and temperature variations.
- (F) The finished side of all fences built to comply with these regulations shall face away from the screened object.
- (4) Evergreen vegetative screens. Evergreen plant materials shall be shrubs, at least thirty (30) inches in height and at a minimum spacing of 48 inches at the time of installation, in combination with landscape trees fulfilling the requirements of this section.
- (5) Landscape berms, in combination with trees, shall fulfill the screening requirements of this section if the berms are at least three (3) feet in height and have maximum side slopes of four (4) feet of horizontal run for every one (1) foot in vertical rise.
- (6) Existing vegetation, demonstrating significant visual screening capabilities and as approved by the commission, shall fulfill the requirements of this section.

(Ordinance 4-12-3 (ord. 99), sec. 47, adopted 4/12/1999)

§ 9.02.079. Park land dedication.

- (a) Dedication of public park land required. It shall be required that a developer of any residential subdivision within the city's territorial jurisdiction set aside and dedicate to the public sufficient and suitable lands for the purpose of public park land or make an in-lieu financial contribution for the acquisition of such park land and/or improvements and amenities in accordance with the provisions of this article.
 - (1) All plats receiving final plat approval based on this article shall conform to the requirements of this section.
 - (2) The council and developer may negotiate the combination of public park land dedication and/or payment of fees-in-lieu of required park land to satisfy the provisions of this article.
 - (A) In the event the subdivider offers to dedicate land for a public park classification that is defined in the master plan, that meets the design standards of this article, and that is three (3) or more acres in size, the city shall be obligated to accept the park land dedication; provided that the council may waive such requirement, or may designate a different tract or parcel to be dedicated.
 - (B) Where a subdivider proposes to pay an in-lieu-fee as provided for in this section, the council may accept such payment as satisfying the park land dedication requirements of this article, except that the city reserves the right to require the dedication of land for public park purposes in accordance with this section when one (1) or more acres of land would be required to satisfy the park land dedication requirements of this article.
- (b) Formula for calculating area of park land. The acreage of park land to be contributed prior to final approval by the council of any residential subdivision shall be equal to

one (1) acre for each one hundred (100) new dwelling units projected to occupy the fully developed subdivision, or 5% of the total project area, whichever is greater.

- (c) Fee payment in-lieu of park land dedication. When the amount of land required to be contributed is less than three (3) acres, the council may require the developer to pay a fee-in-lieu of park land dedication.
- (1) Where the payment of a fee-in-lieu of park land dedication is required or acceptable to the council as provided for in this article, such fee shall be in an amount equal to two hundred fifty dollars (\$250.00) per new dwelling unit projected to occupy the fully developed subdivision.
 - (2) The developer shall tender and pay over to the city said fee prior to recordation of the final plat.
- (d) Subdivision changes. In the event a developer obtains commission approval to deviate from the approved preliminary plat thereby increasing the number of dwelling units projected, or where the use of property is changed from a nonresidential use to a residential use, the owner or developer shall be obligated to provide additional land or fee[??] provide the park land or amenities required for the additional dwellings prior to the city approving the final plat for recordation.
- (e) Final platting of a portion of an approved preliminary plat. Whenever a developer applies for approval of a final plat which contains only a portion of the land encompassed in the approved preliminary plat, the developer's park land contribution shall be based on the ultimate number of dwelling units shown on the approved preliminary plat, and shall be satisfied prior to city approval of the first final plat.
- (f) Design standards for park land. Any land to be dedicated as park land shall be reasonably located near the geographic center of the development, adaptable for use as a public park and recreation facility as defined by the master plan, and designed and located so as to satisfy the following general requirements:
- (1) The dedicated land should form a single parcel or tract of land at least three (3) acres in size unless it is determined that a smaller tract would be in the public interest, or that additional contiguous land will be reasonably available for dedication to or purchase by the city.
 - (2) Public access to public park land delineated on a preliminary plat shall be ensured by provision of at least fifty (50) feet of street frontage, in a manner satisfactory to the city. Likewise, adequate space for public parking should also be considered.
 - (3) At the time the land abutting the delineated areas is developed, the developer of such abutting land shall construct streets along all abutting street frontage, and shall provide water and wastewater utilities to the boundary of one (1) side of the delineated area to meet minimum requirements of this article.
 - (4) The land to be dedicated to meet the requirements of this article should be suitable for public parks and recreation activities. In that regard, fifty percent (50%) of the dedicated land area should not exceed five percent (5%) grade. The

master plan for the city shall be considered when evaluating land proposals for dedication.

- (5) Any disturbed park land shall be restored and the soil stabilized by vegetative cover by the developer.
 - (6) Areas within the regulatory one hundred (100) year floodplain may be utilized to partially meet the park land dedication requirements. Areas in the one hundred (100) year floodplain may constitute up to fifty percent (50%) of the requirement of land dedication; provided that credit may not be obtained for such land that is also dedicated for another public purpose.
 - (7) The location of park land may be required at the edge of a subdivision so that additional land may be added at such time as adjacent land is subdivided or acquired for public use. Otherwise a centralized location is preferred.
 - (8) City staff shall make recommendations based upon the park land design standards and the provisions contained herein, concerning the amount and location of park land, credit for private park land and/or facilities, credit for land in the one hundred (100) year floodplain, and fees-in-lieu of park land dedication.
 - (9) All park areas and playground equipment shall be in accordance with the U.S. Consumer Products Safety Commission, Publication 325, as currently amended.
- (g) Neighborhood park land credit. Where park areas and recreational facilities are to be provided in a proposed subdivision, and where such areas and facilities are to be privately owned and maintained by the future residents of the subdivision, these areas and facilities shall satisfy the requirements of park land dedication if the following standards are met:
- (1) That the private ownership and maintenance of such areas and facilities are adequately provided for by recorded written agreement, conveyance, or restrictions.
 - (2) That the use of such areas and facilities are restricted for park and recreational purposes by a recorded covenant, which runs with the land in favor of the future owners of property and which cannot be defeated or eliminated without the consent of the city council.
 - (3) That such areas and facilities are reasonably similar to what would be required to meet public park and recreational needs, taking into consideration such factors as size, shape, topography, geology, access, and location.
 - (4) That such areas and facilities for which credit is given shall include improvements for the basic needs of a local park. These improvements shall include one (1) or more of the following: children's play areas, picnic areas, game court areas, turf play fields, swimming pools, recreational buildings, trails (sidewalks, walkways or bike trails), and landscaped sitting areas.
- (h) Park fund established. A separate fund to be entitled "park fund" shall be and is hereby created and the money paid by developers at final plat approval in-lieu of the dedication of land and interest thereon, shall be held in said fund in trust to be used solely and exclusively for the purpose of purchasing and/or equipping public park and

recreational land. Such fund shall be invested or held in an interest-bearing account and all earnings and interest shall accrue to the park fund.

- (1) At such time as the city council, based upon the recommendations of the commission and/or city staff determines that there are sufficient funds derived from a certain area in the park fund to purchase usable park land, the council shall cause negotiations to be undertaken to purchase the site by mutual agreement or by condemnation proceedings. In making such determination for the purchase of said site, the conditions of this article shall be taken into consideration.
 - (2) The principal and interest deposited and kept in the park fund shall be used solely for the purpose of purchasing and/or equipping or improving land for public park and recreation uses, and shall never be used for maintaining or operating public park facilities, or for any other purpose.
- (i) Method of dedication. Land accepted for dedication under the requirements of this article shall be conveyed by either of the following methods:
- (1) By dedication within the plat to be filed for record in official county records.
 - (2) By warranty deed transferring the property in fee simple to the city.
 - (3) In any event, land must be free and clear of any mortgages or liens at the time of such dedication or conveyance.

(Ordinance 4-12-3 (ord. 99), sec. 48, adopted 4/12/1999)

§ 9.02.080. through § 9.02.110. (Reserved)

Division 4

Improvements

§ 9.02.111. Improvements.

- (a) Purpose. The provisions of this article, as set forth in this section, are designed and intended to insure that, for all subdivisions of land within the jurisdiction of the city, all improvements as required herein are installed in a timely manner in order that:
 - (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.
 - (3) All required improvements are constructed in accordance with the city standard details and specifications.
- (b) General policy.
 - (1) Upon approval of a final plat, amended plat or short form plat by the commission, and prior to it being signed by the chairperson of the commission and the mayor of the city, and before said final plat, amended plat or short form

plat shall be allowed to be recorded in the plat records of the county, the applicant requesting plat approval shall, within the time period for which the plat has been conditionally approved by the city:

- (A) Construct all improvements as required by this article, and provide a surety instrument guaranteeing their maintenance as required herein; or
 - (B) Provide a surety instrument guaranteeing construction of all improvements required by this article, and as provided for herein.
- (2) In all instances, the original copy of the final plat, amended plat or short form plat, without benefit of required signatures of city officials, shall be held in escrow by the city and shall not be released for any purpose until such time as the conditions of this section are complied with.
 - (3) Upon the requirements of this section being satisfied, the final plat, amended plat or short form plat shall be considered fully approved, except as otherwise provided for in this article, and the original copy of the plat shall be signed by the appropriate city officials and city staff shall file said plat in the plat records of the county.
 - (4) All improvements shall be designed and installed so as to provide for a logical system of utilities, drainage and streets and to create continuity of improvements for the development of adjacent properties. Water, wastewater, transportation and drainage improvements shall be extended to the perimeter of the development, except that the commission is authorized to vary or modify the requirement for extending water, wastewater, transportation and drainage improvements to the perimeter of a subdivision in accordance with the procedural requirements contained in this article.
- (c) Completion of improvements. Prior to the signing of the approved final plat, amended plat or short form plat by the chairman of the commission and mayor of the city, the developer shall:
 - (1) Complete all improvements required by this article in accordance with the approved construction plans and subject to the approval of the city engineer and acceptance by the city, except as otherwise provided for in this article.
 - (2) Construct all sidewalks as shown on the approved construction plans and according to the city standard details and specifications. Sidewalks must be constructed and approved for each lot prior to issuance of a certificate of occupancy.
 - (d) Alternative to completing improvements. The city may waive the requirement that the developer complete all improvements required by this article prior to the signing of the approved plat, contingent upon securing from the developer a guarantee, as provided for by this section, for completion of all required improvements, including the city's cost for collecting the guaranteed funds and administering the completion of improvements, in the event the developer defaults. The commission and council must be notified that this waiver was granted at the time of preliminary plat approval or in the case of amended plats or short form plats upon notice and approval. Such guarantee shall take one (1) of the following forms:

- (1) Performance bond. The developer shall post a performance bond with the city, as set forth herein, in an amount equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements, using the standard city form.
- (2) Escrow account. The developer shall deposit cash, or other instrument readily convertible into cash at face value, either with the city, or in escrow with a bank or savings and loan institution. The use of any instrument other than cash shall be subject to the approval of the city. The amount of the deposit shall equal one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements. In the case of any escrow account, the developer shall file with the city an agreement between the financial institution and the developer guaranteeing the following:
 - (A) That the funds of said escrow account shall be held in trust until released by the city and may not be used or pledged by the developer as security in any other matter during that period.
 - (B) That in the case of a failure on the part of the developer to complete said improvements, the financial institution shall immediately make the funds in said account available to the city for use in the completion of those improvements. Such escrow account agreement shall be prepared using the standard city form.
- (3) Letter of credit. The developer shall provide a letter of credit from a bank or other reputable institution or individual. This letter shall be submitted to the city and shall certify the following:
 - (A) That the creditor does guarantee funds equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements.
 - (B) That, in the case of failure on the part of the developer to complete the specified improvements within the required time period, the creditor shall pay to the city immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.
 - (C) That this letter of credit may not be withdrawn, or reduced in amount, until approved by the city according to provisions of this article.

Such letter of credit shall be prepared using the standard city form.
- (4) Cost estimates. A registered professional engineer licensed to practice in the State of Texas shall furnish estimates of the costs of all required improvements to the city engineer who shall review the estimates in order to determine the adequacy of the guarantee instrument for insuring the construction of the required facilities.
- (5) Surety acceptance. The bank, financial institution, insurer, person or entity providing any letter of credit, bond or holding any escrow account, pursuant to this article, shall meet or exceed the minimum requirements established by city

ordinance and shall be subject to approval by the city as provided in the ordinances of the city.

- (6) Sufficiency. Such surety shall comply with all statutory requirements and shall be satisfactory to the city attorney as to form, sufficiency, and manner of execution as set forth in this article. All such surety instruments shall be both a payment and performance guarantee.
 - (7) If the project is located in the extraterritorial jurisdiction of the city, and is subject to the bonding requirements of the county for the construction of roadways, then that amount of money shall be reduced from the amount required to be posted with the city, provided that the instrument is transferable from the county to the city upon annexation.
- (e) Time limit for completing improvements. The period within which required improvements must be completed shall be incorporated in the surety instrument and shall not in any event, without prior approval of the city, exceed one (1) year from date of final, amended or short form plat approval.
- (1) The commission may, upon application of the developer and upon proof of hardship, recommend to the council extension of the completion date set forth in such bond or other instrument for a maximum period of one (1) additional year. Such hardship may include delays imposed due to city projects. An application for extension shall be accompanied by an updated estimate of construction costs prepared by a registered professional engineer, licensed to practice in the State of Texas. A surety instrument for guaranteeing completion of remaining required improvements must be filed in an amount equal to one hundred ten percent (110%) of the updated estimate of construction costs as approved by the city engineer.
 - (2) The council may at any time during the period of such surety instrument accept a substitution of principal sureties upon recommendation of the commission.
- (f) Failure to complete improvements. Approval of all plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within one (1) year of plat approval, unless otherwise approved by the city. In those cases where a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the city may declare the developer and/or surety to be in default and require that all the improvements be installed.
- (g) Inspection and acceptance of improvements. The city engineer shall inspect all required improvements, to insure compliance with city requirements and approved construction plans.
- (1) When all required improvements have been satisfactorily completed, the city engineer shall either:
 - (A) Accept, in writing, the improvements as having been satisfactorily completed; or

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- (B) Issue a punch list to the developer denoting items remaining to be completed.
- (2) The city engineer shall have ten (10) working days to complete this inspection upon notification by the developer.
- (3) The city engineer shall issue the report within ten (10) working days of the date of inspection.
- (4) The city shall not accept dedications of required improvements nor release or reduce a performance bond or other assurance, until such time as it determines that:
 - (A) All improvements have been satisfactorily completed.
 - (B) Two (2) copies of as-built plans have been submitted to and approved by the city engineer, along with a statement prepared by a licensed professional engineer that all improvements have been installed and constructed in accordance with the submitted as-built plans.
 - (C) Copies of all inspection reports, shop drawings and certified test results of construction materials have been submitted to and approved by the city engineer.
 - (D) Diskette(s) containing computed generated drawings of all public improvements shown on the construction plans have been submitted to the city engineer to update city record drawings.
 - (E) The required maintenance guarantee has been provided.
 - (F) Any and all other requirements identified in the platting process have been satisfied.
- (h) Reduction or release of improvement surety instrument.
 - (1) A surety instrument may be reduced with the approval of the city engineer, and the treasurer/director of finance, upon actual construction of required improvements by a ratio that the improvement bears to the total public improvements required for the subdivision, as determined by the city engineer.
 - (2) Before the city shall reduce said surety instrument, the developer shall provide a new surety instrument in an amount equal to one hundred ten percent (110%) of the estimated cost of the remaining required improvements, and such new surety instrument shall comply with this article.
 - (3) The substitution of a new surety instrument shall in no way change or modify the terms and conditions of the performance surety instrument or the obligation of the developer as specified in the performance surety instrument.
 - (4) In no event shall a surety instrument be reduced below ten percent (10%) of the principal amount of the original estimated total costs of improvements for which surety was given, prior to completion of all required improvements.

- (5) The city shall not release a surety instrument unless and until all the conditions of this article have been met.
- (i) Maintenance bond required.
- (1) Before the release of any surety instrument guaranteeing the construction of required subdivision improvements or the signing of the final, amended or short form plat where subdivision improvements were made prior to the filing of the plat for recordation, the developer shall furnish the city with a maintenance bond or other surety to assure the quality of materials and workmanship, and maintenance of all required improvements including the city's costs for collecting the guaranteed funds and administering the correction and/or replacement of covered improvements in the event the developer defaults.
- (2) The maintenance bond or other surety instrument shall be satisfactory to the city attorney as to form, sufficiency, and manner of execution.
- (3) Said bond or other instrument shall be in an amount equal to ten percent (10%) of the cost of improvements verified by the city engineer and shall run for a period of one (1) calendar year measured from the date of release of the performance surety instrument, or signing and recording of the final plat whichever is later.
- (4) In an instance where a maintenance bond or other surety instrument has been posted and a defect or failure of any required improvement occurs within the period of coverage, the city may declare said bond or surety instrument to be in default and require that the improvements be repaired or replaced.
- (5) Whenever a defect or failure of any required improvement occurs within the period of coverage, the city shall require that a new maintenance bond or surety instrument be posted for a period of one (1) full calendar year sufficient to cover the corrected defect or failure.
- (j) Plans for improvements. Plans for the improvements required by this article shall be prepared, reviewed and approved in accordance with the provisions set forth in this article.
- (k) Acceptance of improvements.
- (1) During the course of installation and construction of the required improvements, the city engineer or his/her designated representative shall make periodic inspections of the work to insure that all improvements comply with city requirements.
- (2) Upon completion of all required improvements, the developer may seek acceptance of all public improvements by the city by following the procedures set forth in the applicable sections of this article.
- (l) Maintenance of improvements. Where a subdivision contains drainage, transportation, water or wastewater improvements, parks and grounds held in common, or other physical facilities necessary or desirable for the welfare of the area, or that are of common use or benefit which will not be, or cannot be, satisfactorily maintained by an existing public agency, provision shall be made which is acceptable to the city council for the proper and continuous operation, maintenance, and supervision of such facilities.

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A copy of the agreements providing for the proper and continuous operation, maintenance and supervision of such facilities shall be presented to and approved by the council, and approved as to form by the city attorney, at the time of final platting and shall be filed of record with the plat thereof.

(Ordinance 4-12-3 (ord. 99), sec. 60, adopted 4/12/1999)

§ 9.02.112. through § 9.02.140. (Reserved)

Division 5

Administration

§ 9.02.141. General provisions.

- (a) For all development of land within the scope of this article, a plan of the development shall be prepared and submitted to the city for approval or disapproval, as provided for in this article. Notwithstanding any other term or provision of this article, any action or approval required by this article to be taken or made by the commission shall also be required to be taken or made by the city council.
- (b) City responsibilities. The city shall administer the provisions of this article and in furtherance of such authority, the city shall:
 - (1) Maintain permanent and current records with respect to this article, including amendments thereto.
 - (2) Receive and file all concept plans, preliminary plats, construction plans, and final plats together with applications therefor.
 - (3) Forward copies of the preliminary plat, construction plans, and final plat to the county, when the development is located within the city's extraterritorial jurisdiction.
 - (4) Review all concept plans, preliminary plats, construction plans, amended plats, short form plats and final plats to determine whether such plats comply with this article, the master plan, applicable laws, and the zoning ordinance, where applicable.
 - (5) Forward plans and plats to the commission as required by this article, together with its recommendations thereon.
 - (6) If required, forward plans and plats to the council, together with the recommendations of the commission and city staff.
 - (7) Make such other determinations and decisions as may be required of the city by this article, the commission or the council.
- (c) Interpretation of provisions. In the interpretation and application of the provisions of this article, the following regulations shall govern:
 - (1) In the city's interpretation and application, the provisions of this article shall be regarded as minimum requirements for the protection of the public health, safety,

comfort, convenience, prosperity and welfare. This article shall be regarded as remedial and shall be liberally construed to further its underlying purposes.

- (2) Whenever both a provision of this article and any other provision of this article, or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.
- (3) Where there arises a question concerning the meaning or intent of a provision of this article, the city is hereby implored to render a written decision setting forth the exact manner in which said provision shall be interpreted and administered. In the event exception is taken by any interested party to such a decision the matter shall be appealed to the commission, and, as appropriate, to the city council, whose decision shall be final.
- (4) Any written decision shall be attached to and made a part of this article, until rescinded by amendment of this article as provided for herein.
- (5) The terms, provisions and conditions of this article shall be interpreted and applied in a manner consistent with chapter 212, Texas Local Government Code, and, particularly as to property within the extraterritorial jurisdiction of the city, section 9.02.007(c).

(Ordinance 4-12-3 (ord. 99), sec. 70, adopted 4/12/1999)

§ 9.02.142. Variances.

A variance to the provisions of this article shall be considered an exception to the regulations, rather than a right. Whenever a tract to be developed is of such unusual size or shape or is surrounded by development of such unusual conditions that the strict application of the requirements contained in this article would result in substantial hardship or inequity, the commission may vary or modify, except as otherwise indicated, such requirement of design as provided for herein, but not of procedure or improvements, so that the developer may improve his/her property in a reasonable manner, but so that, at the same time, the public welfare and interests of the city are protected and the general intent and spirit of this article, the master plan and zoning ordinance are preserved in accordance with the following provisions:

- (1) Jurisdiction. When a written request for a variance from the design requirements of this article is filed:
 - (A) The commission may approve such written request for variances to the design standards and such variance(s), if granted, shall also be considered to be a modification of the zoning regulations, but not the zoning districts, applicable to the specified property within such development within the city limits; or
 - (B) Would constitute a major departure from the applicable provisions of this article for such features as: lot size, setback lines, etc., such variance request shall be considered by the council in accordance with its powers and procedures as set forth in the zoning ordinance, and their decision shall be final; and

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- (C) After giving notice of such requested variances, the commission may consider each such variance request during the course and process of considering the application for subdivision plat approval given or granted.
- (2) Notification. The notification procedures for variance requests shall be the same as the notification procedures described for a concept plan.
- (3) Approval. In granting approval of a request for variance, the commission and council shall conclude that the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this article would result in unnecessary hardship, and so that the variance observes the spirit of this article and concludes that substantial justice is done. The commission and council shall meet these requirements by making findings that:
- (A) The public convenience and welfare will be substantially served;
 - (B) The appropriate use of surrounding property will not be substantially or permanently impaired or diminished;
 - (C) The applicant has not created the hardship from which relief is sought;
 - (D) The variance will not confer upon the applicant a special right or privilege not commonly shared or available to the owners of similar and surrounding property;
 - (E) The hardship from which relief is sought is not solely of an economic nature;
 - (F) The variance is not contrary to the public interest;
 - (G) Due to special conditions, the literal enforcement of this article would result in an unnecessary hardship; and
 - (H) In granting the variance the spirit of this article is observed and substantial justice is done.

(Ordinance 4-12-3 (ord. 99), sec. 72, adopted 4/12/1999)

§ 9.02.143. Conditions for issuing a building permit.

No building permit shall be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land and no municipal utility service will be furnished to such lot or tract which does not comply with the provisions of this article and all applicable elements of the master plan, except as herein exempted or upon the written application and approval of a variance.

(Ordinance 4-12-3 (ord. 99), sec. 73, adopted 4/12/1999)

§ 9.02.144. Fees.

To defray the costs of administering this article, the applicant seeking plat approvals shall pay to the city, at the time of submittal, the prescribed fees as set forth in the current administrative fee schedule approved by the council, and on file in the office of the city,

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together with all engineering and other professional fees, including attorney fees, and expenses incurred by the city for and with respect to such application and plat.

(Ordinance 4-12-3 (ord. 99), sec. 74, adopted 4/12/1999)

§ 9.02.145. Amendments.

The council may, from time to time, adopt, amend and make public rules and regulations for the administration of this article. This article may be enlarged or amended by the council after public hearing, due notice of which shall be given as required by law.

(Ordinance 4-12-3 (ord. 99), sec. 75, adopted 4/12/1999)

§ 9.02.146. Violations.

Except as otherwise provided for in this article, it shall be unlawful for any person, firm or corporation to develop, improve or sell any lot, parcel, tract or block of land within the city's territorial jurisdiction for other than agricultural purposes, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this article.

(Ordinance 4-12-3 (ord. 99), sec. 76, adopted 4/12/1999)

§ 9.02.147. Enforcement.

- (a) Penalty. Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.
- (b) Administrative action. The city engineer and/or the city administrator shall enforce this article by appropriate administrative action, including but not limited to the rejection of plans, maps, plats and specifications not found to be in compliance with this article and good engineering practices, and the issuance of stop work orders.
- (c) Court proceedings. Upon the request of the city council the city attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this article, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this article.

(Ordinance 4-12-3 (ord. 99), sec. 77, adopted 4/12/1999)

§ 9.02.148. Amendment of previous subdivision ordinance.

The council hereby amends Ordinance Number 15-Sub-A, and each amending ordinance thereto, in their entirety; provided that such ordinances shall remain in force and effect as herein provided with respect to plats submitted prior to the effective date of this article. This article providing comprehensive regulations and standards for the platting of property and development of subdivisions within the city and its extraterritorial jurisdiction shall be known as the "Subdivision Ordinance."

(Ordinance 4-12-3 (ord. 99), sec. 78, adopted 4/12/1999)

§ 9.02.149. Severability.

Should any section or part of this article be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this article are declared to be severable.

(Ordinance 4-12-3 (ord. 99), sec. 79, adopted 4/12/1999)

§ 9.02.150. Inclusion in Code of Ordinances.

It is the intention of the council that this ordinance shall become a part of the Code of Ordinances of the city, and may be renumbered and codified therein accordingly.

(Ordinance 4-12-3 (ord. 99), sec. 80, adopted 4/12/1999)

§ 9.02.151. Effective date.

This article shall take effect immediately from and after its passage and publication in accordance with the provisions of the Texas Local Government Code, and it is accordingly so ordained.

(Ordinance 4-12-3 (ord. 99), sec. 81, adopted 4/12/1999)

§ 9.02.152. Open meetings.

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, chapter 551, Texas Government Code.

(Ordinance 4-12-3 (ord. 99), sec. 82, adopted 4/12/1999)

**ARTICLE 9.03
ZONING⁷**

Division 1

Generally

§ 9.03.001. Authority.

This article is adopted pursuant to the police powers of the city and under the authority of the Constitution and general laws of the State of Texas, including particularly chapter 211 of the Texas Local Government Code.

(Ordinance 12-17-01 (ord. 2), sec. 1, adopted 12/17/2001)

§ 9.03.002. Title.

This article shall be known, and may be cited, as the Zoning Ordinance of the City of Holland, Texas.

(Ordinance 12-17-01 (ord. 2), sec. 2, adopted 12/17/2001)

§ 9.03.003. General purpose and intent.

Purpose. The primary purposes of this article are to promote the public health, safety, morals and the general welfare of the city and its present and future residents; provide reasonable regulations and requirements to protect, preserve, improve and provide for the public health, safety, morals and general welfare of the present and future citizens of the city; and to establish a framework of zoning guidelines and criteria which will provide for and support the development of a quality living and work environment by incorporating provisions requiring all future development and redevelopment to provide a compatible plan for residential, commercial and industrial uses, while providing reasonable protections for both the public and persons having an ownership interest in property affected by these regulations. This article should be administered and applied to result in development superior to that otherwise achievable and to promote the following purposes:

- (1) Assist the safe, orderly, healthful and coordinated development of the city;
- (2) Conserve existing and future neighborhoods;
- (3) Protect and conserve the value of real property throughout the community;
- (4) Conserve, develop, protect, and utilize natural resources, as appropriate and consistent with the public interest, to enhance the preservation of the environment;
- (5) Protect and preserve places and areas of historical and cultural importance and significance to the community;

7. Editor's note—This article consists of the zoning ordinance, Ordinance 12-17-01 (ord. 2) adopted December 17, 2001, as amended. Section and subsection 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 article. The words “City of Holland” have been changed to “city”. Changes in the names of state agencies have been incorporated without notation.

§ 9.03.003 PLANNING AND DEVELOPMENT REGULATIONS § 9.03.005

- (6) Prevent the overcrowding of land and avoid undue concentration of population or land uses, thereby encouraging high quality development and innovative design;
- (7) Lessen congestion in the streets and provide convenient, safe, and efficient circulation of vehicular and pedestrian traffic;
- (8) Facilitate the adequate and efficient provision of transportation, water, wastewater, schools, parks, emergency and recreational facilities, and other public requirements;
- (9) Promote economic development through an efficient and practical means by which development will promote a prosperous economic environment;
- (10) Promote compatible residential, commercial and industrial uses to harmoniously relate future development and redevelopment to the existing community and facilitate the development of adjoining properties;
- (11) Standardize the procedure and requirements for zoning, building permits, and certificates of occupancy to provide administrative efficiency and property owner rights; and
- (12) Provide the context for the appropriate reconciliation of any differences of interest among property owners, developers, neighborhoods and the city.

(Ordinance 12-17-01 (ord. 2), sec. 3, adopted 12/17/2001)

§ 9.03.004. Jurisdiction and intent.

- (a) The requirements of this article shall apply to all property within the city; provide for the implementation of the site development regulations; provide a voluntary guide for the development of property within the extraterritorial jurisdiction in order that such property may be developed in a manner consistent with neighboring areas and existing or planned infrastructure; and be construed and applied in a manner to give effect to the city's master plan. This article has been made with reasonable consideration among other things, for the character of the 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 consistent with the city's master plan. Nothing herein shall be construed to grant a "permanent" zoning.
- (b) The intent of this article is to supplement the minimum standards for the development of land within the city as contained in the city's subdivision ordinance, applicable building, plumbing and electrical codes, and city standard details and specifications. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. Such will produce a monotonous urban setting and is not encouraged.

(Ordinance 12-17-01 (ord. 2), sec. 4, adopted 12/17/2001)

§ 9.03.005. Definitions.

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

different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word “shall” is always mandatory. The word “herein” means in this article. The word “regulations” means the provisions of any applicable ordinance, rule, regulation or policy. The word “person” means any human being or legal entity and includes a corporation, a partnership and an incorporated or unincorporated association. The words “used or occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.” Any definition not expressly prescribed herein shall, until defined by ordinance, be construed in accordance with customary usage in municipal planning and engineering practices.

Access means a way of approaching or entering a property.

Accessory structure means, in a residential district, a subordinate building detached and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, tool house, bath or greenhouse as a hobby (no business), home workshop, children’s playhouse, storage house or garden shelter, but not involving the conduct of a business or occupancy by any long-term or paying guests.

Accessory use means a use that is customarily a part the principal use, a use which is clearly incidental, subordinate and secondary to the permitted use, and which does not change the character thereof. See: Accessory structure.

Adjacent means abutting and directly connected to or bordering.

Alcoholic beverages–beer and wine means the typical use listing which will allow the serving of alcoholic beer and wine beverages for on-premises consumption as an incidental use where the gross revenue from the on-premises sales of beer and wine is less than 25% of total gross revenue.

Alcoholic beverages, beer and wine–off-premises means the standard use listing for a convenience store or similar facility where the sale of beer for off-premises consumption is an allowed use according to zoning standards.

Alcoholic beverages, beer and wine–on-premises means the standard use listing which will solely allow the serving of beer for on-premises consumption.

Alcoholic beverages–mixed drinks means the typical use listing which will allow the serving of alcoholic beverages for on-premises consumption as an incidental use where the gross revenue from the on-premises sales of alcoholic beverages is less than 75% of total gross revenue.

Alley means a minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which may be used for public utility purposes.

Amortization means a method of eliminating nonconforming uses by requiring the termination of the nonconforming use after a specified period.

Amusement (indoor) means an amusement enterprise wholly enclosed in a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, including a bowling alley, billiard parlor, and similar activities.

Amusement (outdoor) means any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open, including a golf driving range, archery range, miniature golf course and similar activities.

Animal(s) means any animate being that is not a human.

Annexation means the incorporation of land area into the city with a resulting change in the boundaries of the city.

Antique shop means a business that sells items whose value is greater than the original purchase price because of age or intrinsic value.

Apartment means a room or group of rooms used as a dwelling for one (1) family unit that includes full kitchen facilities for the preparation of meals and cooking therein.

Apartment hotel means a building used or intended to be used as a home for twelve (12) or more families, who are permanent residents, living independently of each other, in which building may be located on the first floor living units for transient guests, and/or retail sales and service.

Apartment house or apartment building or apartments means a building or portion thereof used or intended to be used as a home for five (5) or more families or households living independently of each other and equipped for preparation of food.

Applicant means a person applying for zoning approval under this article.

Approval means the final approval in a series of required actions. For instance, the approval date of a planned unit development zoning application is the date of council approval of the final site plan.

Art studio or gallery means a building where objects of art are created or displayed for the public enrichment or where said art objects are displayed for sale, including the teaching of painting and/or sculpting.

Assisted-retirement living means a use providing 24-hour supervision and assisted living for more than 15 residents not requiring regular medical attention. This classification includes personal care homes for the physically impaired, and persons 60 years of age or older.

Attendant building means a building used to house the work place of the manager or attendant of a public or private parking lot.

Attendant documents means materials needed to address the specific requirements of this article, which the applicant feels necessary to explain the submittal.

Auto repair (major) means a business specializing in major repair of motor vehicles entirely within an enclosed building, including any use listing below, as well as any use not listed as minor vehicle servicing.

- (1) Auto glass, seat cover and muffler shop;
- (2) Auto painting or body rebuilding shop;
- (3) Tire retreading and capping;

- (4) Body, fender, clutch, transmission, differential, axle, spring and frame repairs;
- (5) Major overhauling of engines requiring removal therefrom of cylinder head or crankcase pan and any associated engine rebuilding;
- (6) Repair of radiator requiring removal from the vehicle;
- (7) Repair of truck, trailer, farm or industrial equipment, or other machinery/supplies;
- (8) Brake work, other than minor maintenance such as disc pad replacement and minor brake adjustment.

Auto repair (minor) means a business specializing in minor, routine, periodic, preventive maintenance of a motor vehicle conducted entirely within an enclosed building, including the following.

- (1) Servicing of spark plug, batteries, distributors and distributor parts and including minor engine tune-ups;
- (2) Tire servicing and flat repair but not recapping or regrooving;
- (3) Radiator cleaning and flushing (on vehicle);
- (4) Fuel pump, oil pump and related maintenance;
- (5) Minor servicing of carburetors;
- (6) Emergency wiring repairs;
- (7) Minor motor adjustment not involving removal of head or crankcase;
- (8) Quick oil and filter change;
- (9) Servicing hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat belts, windshield wipers, mirrors, and installation of vehicle accessories such as radios;
- (10) Lubrication, greasing, and washing;
- (11) Disc pad replacement and minor brake adjustment.

Auto sales (outdoor) means an open, dust-free, all-weather area, other than a street, alley or other public place, used for the display and sales of new or used automobiles. Where no repair work, except those actions normally associated with vehicle operator service, is done on the cars to be displayed and sold on the premises. A sales office is normally located on the premises and such shall be limited to an area less than 10% of the total sales lot.

Auto sales facility means one or more buildings and an open, dust-free, all-weather surface other than a street, alley, or other public place, used for the display, wholesale or retail sale, with repair and renovation authorized entirely within an enclosed building, and temporary storage of vehicles for repairs or renovation not to exceed ninety (90) days.

Bar means any business establishment required to have a state license for the sale of alcoholic beverages other than beer, for on-premises consumption.

Bed and breakfast means an establishment engaged in providing rooms or groups of rooms in a dwelling unit for temporary lodging for overnight guests on a paying basis. Or means a historic or otherwise architecturally unique building where lodging is provided by prearrangement for definite periods, for compensation, for not more than seven rooms to let and where breakfast is included in the rates charged to guests.

Billboard means a sign advertising products not made, sold, used or served on the premises displaying such sign, or a sign having a height greater than twelve (12) feet or a width greater than eighteen (18) feet, including supports.

Block means an area enclosed by streets, normally to be divided into lots to be occupied by or intended for buildings; or if the same word is used as a term of measurement, it shall mean the distance along one side of a street between the nearest two streets which intersect said street on said side.

Board means the board of adjustments of the city.

Board of adjustments means a committee appointed by the council to consider appeals from certain administrative actions pursuant to section 211.008 of the Texas Local Government Code and that is given the authority set forth in this article and in section 211.009 of the Texas Local Government Code.

Boarding house means a building other than a hotel, occupied as a single housekeeping unit where lodging or meals are provided for three (3) or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the general public or transients.

Buffer means an area within a property or site, generally adjacent to and parallel with the property line, either consisting of existing natural vegetation or created by the use of trees, shrubs, berms and/or fences, and designed to limit views and sound from the site to adjacent properties and vice versa.

Building means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building area means the gross area covered by a structure when placed on the lot.

Building ordinance means the building codes and related ordinances of the city providing standards, requirements and regulations for site development and the construction and erection of buildings and structures within the city, including, but not limited to, the electrical code, plumbing code, building code, and minimum housing code, adopted by the city council from time to time.

Building permit means a permit issued by the city which is required prior to commencing construction or reconstruction of any structure.

Building plot means the land, lot, lots or tract of land upon which a building or buildings are located, or upon which they are to be constructed, including yards.

Building setback line means a line or lines designating the interior limit of the area of a lot within which structures may be erected. The building lines generally provide the

boundaries of the buildable area of any given lot and no structure or building may be erected between a building and the corresponding lot line.

Cafe or cafeteria means a commercial establishment where snacks or meals are vended for consumption indoors or on the premises.

Caliper means the trunk diameter of a tree at three (3) feet above natural grade.

Carport means a structure with one or more sides, covered with a roof and constructed specifically for the storage of one or more motor vehicles.

Cemetery means land used or intended to be used for the interment of human remains and dedicated for cemetery purposes, including crematories, mausoleums, columbariums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Centerline of a waterway means the centerline of the waterway and refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by (first) the low flow line, or (second) the center of the two (2) year floodplain.

Child care center (intermediate) means a facility (including nonresidential structures) which provides custodial care and supervision for less than 24 hours a day for between seven (7) and twelve (12) children, excluding foster and group homes. The facility must contain a minimum 150 square feet of floor area for each child.

Child care center (large) means a facility where over twelve (12) children receive custodial care and supervision for less than 24 hours a day, excluding foster and group homes.

Child care center (small) means a private residence where the occupant provides custodial care and supervision during daylight hours for a maximum six (6) children at any one time. The maximum of six (6) children includes the family's natural or adopted children under the age of fourteen (14). The residence must contain a minimum 150 square feet of floor area for each child. This use shall exclude a family/group home.

Child care or child development facilities means any children's home, orphanage, institution, private home, residence or other place, whether public, parochial or private, operated for profit or not, which keeps, cares for, has custody of or is attended by four (4) or more children under sixteen years of age at any one time, who are not members of the immediate family or any natural person operating any such place, during any part or all of the twenty-four hours in a day. Also, any institution, home or other place, whether public, parochial or private, conducted for profit or not, which keeps, cares for, has custody of or is attended by any number of children, under sixteen years of age, who are not members of the immediate family of any natural person operating such a place, who are mentally or physically handicapped, under medical or social supervision, and not within a hospital, twenty-four hours a day.

Church or rectory means a place of worship and religious training of recognized religions including on-site housing of ministers, rabbis, priests, nuns and similar staff personnel.

City means the City of Holland, Texas.

City administrator means the mayor of the city, or other chief administrative officer designated by ordinance, or his or her designated representative

City building official or building official means the designated building official for the city or his or her designated representative.

City council or council means the city council of the city.

City engineer means the city engineer for the city or his or her designated representative.

City limits or within the city means the, or within the, incorporated boundaries of the city.

City staff means the officers, employees and agents of the city assigned and designated from time to time by the city administrator and/or council, including but not limited to the city engineer, to review, comment and/or report on zoning applications.

City standard details and specifications means a library of city-approved drawings and technical data representing typical drainage, transportation, erosion and sedimentation control, and utility appurtenances to be constructed for city acceptance.

Cleaning or laundry self-service shop means an establishment providing customers with self-service laundry and/or dry cleaning facilities, and does not include a commercial laundry or cleaning plant.

Cleaning shop or laundry (small) means a custom cleaning shop not exceeding two thousand five hundred (2,500) square feet of floor area.

Clinic means a public or private station or establishment for the examination and treatment of outpatients by an individual or group of doctors, dentists, opticians, veterinarians, or other similar medical professionals.

Clothing manufacture means cutting, sewing and forming garments, millinery and accessories, when no noise, dust, vibration, odor or other undesirable or obnoxious condition is created to affect adjacent property.

Club. See: Social club.

Cold storage plant means a commercial establishment where food or other commodities are stored either in lockers, rented or leased, or in vaults in bulk for distribution to the home or to commercial businesses. No slaughtering of animals or fowl is allowed on the premises.

College or university means an academic institution of higher learning, accredited or recognized by the state and offering a program or series of programs of academic study.

Commercial amusement (indoors) means an enterprise conducted solely within one or more buildings or permanently enclosed area whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate for the activity, including the following activities and activities of the same or closely similar nature. Commercial amusements (indoors) include zoos, carnivals, expositions, miniature golf courses, arcades, fairs, exhibitions, athletic contests, rodeos, children's rides, skating rinks, ice rinks, traveling shows, bowling alleys, and pool parlors, and similar enterprises.

Commercial amusement (outdoors) means any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate for the activity, including the following activities and activities of the same or closely similar nature. Commercial amusements (outdoors) include zoos, carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions, athletic contests, rodeos, tent shows, Ferris wheels, children's rides, roller coasters, skating rinks, ice rinks, traveling shows and similar enterprises.

Commission means the planning and zoning commission of the city.

Common area means privately owned land and improvements within a townhouse, condominium, planned development, or community unit development including buildings, common open space, central services and utilities, streets, walks, parking areas, fencing and screening walls, landscaping, and any other elements and facilities under common ownership and available for the use of all owners or tenants.

Common open space means that portion of the common area which is designated for outdoor recreation area, private park, play lot, plaza, athletic court, swimming pool, fountain, stream or pond, ornamental landscaping or natural vegetation offering visual amenity, and which is open to general view and conveniently accessible to pedestrians within the project.

Communication services means an establishment engaged in providing broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, and photocopy and reproduction mechanisms (excludes broadcast towers).

Community center (private) means a recreational facility, including both indoor and outdoor facilities, for use by residents and guests of a particular residential community development, subdivision, planned unit development, or membership group.

Community center (public) means a building and grounds owned or leased and operated by a governmental body for the social, recreational, health or welfare of the community served.

Compounding or fabrication (light) means the making of jewelry, compounding of perfume, small instruments or pharmaceuticals, and similar work or processes.

Comprehensive or master plan means the comprehensive plan of the city and adjoining areas adopted by the commission and approved by the city council, including all its revisions as defined by chapter 219 [chapter 213] of the Texas Local Government Code. The plan may indicate the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, and other public and private developments and improvements, to include detailed plans for water and sewer facilities. Such plan is the overall development plan for the community adopted to provide long-range development policies and may include all specified individual elements thereof among which are the plans for land intensities; land subdivision; circulation; and community facilities, utilities and services. The comprehensive or master plan does not constitute zoning regulations or establish zoning district boundaries.

Conditional use means an additional use which may be permitted in a district, subject to meeting certain conditions or procedures established by the city council. No conditional

use shall be permitted in any location where it will be inconsistent with the existing adjacent and nearby uses.

Condominium means a building or group of buildings in which dwelling units are owned individually, while the structure and common areas and facilities are owned by all the owners on a proportional, individual basis in compliance with the Texas Uniform Condominium Act, chapter 82, Texas Property Code, with individual apartments or units having a minimum of 700 square feet living area, inclusive of separate sleeping, living and kitchen facilities.

Construction plans means the maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as part of a development and sealed by a licensed professional engineer or architect.

Contiguous means adjacent property whose property lines are separated by only a street, alley, easement, right-of-way or buffer.

Convalescent home means any structure used or occupied by three (3) or more persons recovering from illness or being provided geriatric care for compensation.

Corner lot means a lot located at the intersection of and abutting on two (2) or more streets.

Country club means an area of twenty (20) acres or more containing a golf course and a clubhouse and available only to private specific membership; such a club may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts and similar recreational or service facilities.

County means Bell County, Texas.

County appraisal district means the Bell County Appraisal District.

Court means an open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other open space.

Critical root zone means a circular area around a significant tree equal to one (1) foot in radius for each one (1) inch caliper, and the center of the circular area located at the trunk.

Cultural services means a library, museum, or similar registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

Day camp means a facility arranged and conducted for the organized recreation and instruction of children including outdoor activities on a daytime basis.

Developed area means that portion of a lot, easement, or parcel upon which a building, structure, pavement or other improvements have been placed.

Developer means the legal owner of land to be improved and/or subdivided or his/her authorized representative.

Development means the construction or placement of any buildings, utilities, access, roads or other structures, excavation, mining, dredging, grading, filling, clearing or removing vegetation, or the deposit of refuse, waste or fill. Lawn and yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming shall not constitute development. Utility, drainage, and street repair, and any construction, maintenance and installation which does not require land disturbance or result in additional impervious cover, shall also not constitute development.

District means a zoned section or sections of the city for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Dormitory means any structure specifically designed to house student tenants associated with a university, college or school.

Double frontage lot. See: Reverse frontage lot.

Drainageway. See: Waterway.

Drive approach means a paved surface connecting the street to a lot line.

Drive-in eating establishment means any structure and premises specifically designed for the preparation and dispensing of food and meals for consumption either indoors or in a vehicle parked on the premises, or to be taken away for consumption at other places.

Driveway means the surface connecting a drive approach with a parking space, parking lot, loading dock or garage.

Dwelling means any building or portion thereof built on-site which is designed for or used exclusively for residential purposes, including single-family, two (2) family, three (3) family, four (4) family and multi-family dwellings, but not including hotels, motels, manufactured housing, campers, trailers or other structures without a permanent foundation.

Dwelling (four-family) or fourplex means a detached building designed and constructed with four (4) separate living units under a single roof for occupancy by four (4) families.

Dwelling (multiple-family) means any building or portion thereof, which is designed, built, rented, leased or let to be occupied as five (5) or more dwelling units or apartments or which is occupied as a home or residence of five (5) or more families.

Dwelling (single-family) means a detached building having accommodations for occupancy by not more than one family.

Dwelling (three-family) or triplex means a detached building designed and constructed with three (3) separate living units under a single roof for occupancy by three (3) families.

Dwelling (two-family) or duplex means a detached building designed and constructed with two (2) separate living units under a single roof for occupancy by two families.

Dwelling unit means a building or portion of a building arranged, occupied or intended to be occupied as residential unit designed to accommodate one (1) household for living, sleeping, eating, cooking and sanitation.

Easement means a grant by the property owner of the use of a strip of land for stated purposes.

Environment means the aggregate of social and physical conditions that influence the life of the individual and/or community.

Exterior side yard means a yard which faces and is parallel to a side street.

Extraterritorial jurisdiction or ETJ means that geographic area outside the corporate boundaries of the city as established pursuant to sections 42.021 and 42.022 of the Texas Local Government Code.

Family means any number of individuals living together as a single housekeeping unit, in which not more than three (3) individuals are unrelated by blood, marriage, adoption, or guardianship, and occupying a dwelling unit.

Farm, ranch, garden or orchard means an area of three (3) acres or more which is used for the primary purpose of growing of vegetables, fruits, trees, hay, livestock feed and/or grain, and/or for the raising thereon of poultry and farm animals such as horses, cattle and sheep and including the necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine and other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

Farm accessory building means a structure, other than a dwelling, on a farm as herein defined, for the housing, protection or storage of the usual farm equipment, animals and crops.

Financial services means services provided by an establishment primarily engaged in financial and banking activities. Typical uses may include banks, savings and loan institutions, stock and bond brokers, loan and lending activities, and similar services.

Floodplain means that land which[??] lying within a stream channel or adjacent to a stream channel within which flooding frequently occurs, the elevation above sea level of which shall be as established by the city and made of record. It is land which is required to be kept open and non-urbanized in order to maintain upstream floodplain characteristics and insure continued adequate drainage of adjacent land.

Floor area means the total square feet of floor space within the outside dimensions of a building, including each floor level, but excluding cellars, carports or garages.

Floor area ratio (FAR) means the maximum square footage of total floor area permitted for each square foot of land area. The ratio between the total square feet of floor area in all buildings located on a lot and the total square feet of land in the lot or tract on which the buildings are located.

Food and beverage sales store means a retail establishment of greater than 2,500 square feet of total floor area, selling a variety of consumables, notions and/or similar items,

usually serving a significant market area. The sale of beer for off-premises consumption is allowed, if not otherwise prohibited, with a conditional use permit.

Food and beverage sales store or convenience store means a retail establishment of less than 2,500 square feet of total floor area selling a variety of consumables, notions and/or similar items, usually serving as a convenient outlet to a neighborhood. This activity can include the retail sale and self-service dispensing of gasoline or other fuels in appropriate zoning districts. The sale of beer for off-premises consumption is allowed in specific districts, with a conditional use permit.

Food sales means an establishment primarily engaged in the retail sale of food or household products for home consumption. Typical uses include grocery stores, delicatessens, meat markets, retail bakeries, and candy shops.

Filing date means, with respect to zoning applications, the date of the first public hearing before the commission regarding such zoning application.

Front yard means a space extending the full width of the lot between any building setback line and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

Frontage means that side of a lot, parcel or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

Frontage block means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

Garage-commercial means any premises and structure used for housing more than five (5) motor vehicles or where any vehicles are repaired for operation or kept for remuneration, hire or sale, and where a retail service station may be maintained as a secondary use.

Gasoline station (full service) means a place where gasoline, other fuels, oil and grease and/or accessories are sold and dispensed to the retail motor vehicle trade, and where one or more of the following activities are conducted: motor vehicles are serviced and repaired; stored batteries are recharged and cared for; or vehicle tires are stored, serviced or exchanged.

Gasoline station (limited service) means a place where the services provided are limited to the retail sale, either self-service or attendant dispensed, of gasoline, other fuels and petroleum products for the motor vehicle trade.

Golf course (commercial) means a golf course or driving range privately owned but open to the public for a fee and operated as a commercial venture.

Governing body means the city council of the city.

Grade means the slope of a road, street, other public way or utility line specified in terms of percent (%); the topographic relief of a parcel of land; the average elevation at ground level of the buildable area of a lot or parcel of land.

Grading means any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

Half story means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than five (5) feet above the floor of such story, except that any partial story used for residence purposes, other than by a family occupying the floor immediately below it, shall be deemed a full story.

Halfway house means a dwelling unit used as a single housekeeping unit for not more than six (6) persons who have demonstrated a tendency towards alcoholism, drug abuse, anti-social or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, provided a conditional use permit is first obtained.

Height means the vertical distance from the highest point on a structure to the average ground elevation where the foundation meets the ground.

Heliport means a landing facility for rotary wing aircraft subject to regularly scheduled use and may include fueling or servicing facilities for such craft.

Helistop means a landing pad for occasional and infrequent use by rotary wing aircraft not exceeding a gross weight of 6,000 pounds.

Home for aged means a home where elderly people are provided with lodging and meals without nursing care.

Home occupation means a commercial use customarily carried on in the home by members of the occupant family without structural alterations in the principal building or any of its rooms, without the installation of machinery or additional equipment other than that customary to normal household operations, without the employment of additional persons, and which does not cause the generation of other than normal noise, pedestrian and vehicular traffic. It is an accessory to a residential use subject to the following limitations: (a) the home occupation shall be conducted entirely within a dwelling unit which is the bona fide residence of the practitioner(s); (b) the residential character of the lot and dwelling shall be maintained; the exterior of the dwelling shall not be structurally altered; and no additional buildings shall be added on the property to accommodate the home occupation; (c) the occupation shall not produce external noise, vibration, smoke, odor, fumes, electrical interference or waste run-off outside the dwelling unit or on the property surrounding the dwelling unit; and (d) no vehicle used in connection with the home occupation which requires a commercial driver's license to operate shall be parked on any street adjacent to the property.

Homeowners' or unit owners' association means any association or organization of co-owners within a condominium or townhouse project, including the council of co-owners or a condominium or townhouse management association, or the owners of lots within a subdivision; organized for the primary purpose of managing and maintaining the common areas and common open space in any such project, or otherwise owned by the association. An organization, association, or other entity formed and controlled by the developer, project owner or general partner for this purpose will be included in this definition.

Hospital, sanitarium, nursing home, or hospice means a building or portion thereof used or designated for the housing or treatment of the sick, aged, mentally ill, injured, convalescent or infirm persons; provided that this definition shall not include rooms in any residential dwelling, hotel or apartment hotel not ordinarily intended to be occupied by said persons.

Hospital (acute care) means an institution with facilities and equipment for conducting major medical examinations and tests, and providing full hospital services, with rooms for occupancy by ill or injured persons where sick or injured patients are given medical or surgical treatment intended to restore them to health and an active life.

Hospital (chronic care) means an institution where persons suffering from illness, injury, deformity or deficiency of age are given care and treatment on a prolonged or permanent basis.

Hospital services means a facility providing medical, psychiatric, or surgical services for sick or injured persons on an in-patient basis and including ancillary facilities for out-patient and emergency treatment, diagnostics services, training, administration, research, and services to patients, employees or visitors.

Hotel means a building in which lodging is provided and offered to individual transient guests, but not excluding permanent guests, and may include a drugstore, clothes pressing shop, barber shop or other service facilities for guests for compensation, and in which ingress and egress to and from all rooms is made through and inside a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradiction to a boarding house, a lodging house, or an apartment. To be classified as a hotel an establishment shall contain a minimum of six (6) individual guest rooms or units and shall furnish customary hotel services such as linen, maid service, telephone, and the use and upkeep of furniture. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not include a hospital, sanitarium, nursing home, or a dormitory as defined in section 156.001, Texas Tax Code.

Impervious cover means roads, parking areas, buildings, swimming pools, rooftop landscapes and other construction limiting the absorption of water by covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the development.

Improvements means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

Incinerator means a furnace or apparatus for burning waste materials such as trash wood and other flammable items for the purpose of reducing their weight and bulk.

Institution for the care of substance dependent persons means an institution offering resident or outpatient treatment to alcoholic or narcotic patients.

Interior lot means a lot other than a corner lot and bounded by a street on only one (1) side.

kennel means a place in which five (5) or more dogs or cats at least six (6) months of age are kept, boarded or trained, by the owners of the dogs or cats or by persons providing facilities and care with or without compensation.

Kindergarten or pre-school means any private school, operated for profit or not, attended by four (4) or more children at any one time during part of a twenty-four hour day, which provides a program of instruction for children below the first grade level in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

Laundry services means an establishment engaged in providing laundering, dry cleaning, or dyeing services. Typical uses shall include bulk laundry and cleaning pants, and linen supply services.

Legal lot means a lot recorded in the official county records pursuant to and in compliance with the subdivision regulations and/or state law in effect at the time of the creation of the lot.

Light manufacturing means an establishment engaged in the manufacture of finished products or parts, including packaging of such products, and incidental storage, sales and distribution of such products, but excluding uses that are not traditionally classified as light industrial or manufacturing. Uses defined as traditional light industrial and manufacturing are set forth in this article.

Livestock auction means barns, pens and sheds for the temporary holding and sale of livestock.

Loading space means an off-street space for the parking of a vehicle while loading or unloading merchandise or materials from commercial or industrial vehicles.

Local health district means the Bell County Health District.

Local utility line means the facilities provided by a municipality or a franchised utility company for the distribution or collection of gas, water, surface drainage water, sewage, electric power, telephone or cable service, including pad and pole mounted transformers.

Lot means a separate parcel of land, created by the division or subdivision of a block or other parcel, intended as a unit for transfer of ownership, or for development, or for occupancy and/or use, platted in compliance with state law. See also: Legal lot.

Lot depth means the average horizontal distance between the front and rear lot lines.

Lot lines means the lines bounding a lot as defined herein.

Lot width means the average horizontal distance at the front building setback line of a lot.

Manufactured home means a complete living unit, manufactured at a location away from the lot on which it will be located, as defined in ==article 5221f of the Texas Revised Civil Statutes.

Manufactured housing . See: Manufactured home.

Master plan means the overall development plan for the community which has been officially adopted to provide long-range development policies including all specified individual elements thereof among which are the plans for mean land intensities; land

subdivision; circulation; and community facilities, utilities and services. See: Comprehensive plan.

Mini-storage warehouse means a building or group of buildings consisting of individualized shelters of various sizes for rent or lease for the purpose of providing protection of commodities stored therein. The size of each individual storage unit of a mini-storage warehouse shall be limited to 2,000 cubic feet.

Mobile home means a movable or portable structure constructed prior to June 15, 1976 that is eight feet (8'), or more, in width and forty feet (40'), or more, in length constructed to be towed on its own integral chassis, as defined in ==article 5221f of the Texas Revised Civil Statutes. Any mobile home not constituting an existing conforming or nonconforming use are prohibited within the city limits.

Modular component means a structure or building module as defined in ==article 5221f-1 of the Texas Revised Civil Statutes that is inspected and permitted by and under the jurisdiction and control of the state department of licensing and regulation, that is transportable in one or more sections and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air conditioning and electrical systems contained in the component. The term does not include a mobile home or a manufactured home.

Motel means a building or group of detached, semi-detached or attached buildings containing guest rooms or apartments with automobile storage space provided in connection therewith, which building or group is designed, intended or used primarily for the accommodation of automobile travelers, including groups designated as auto cabins, motor courts, motels and similar designations.

Multi-family dwelling means a single structure designed to accommodate five (5) or more households.

Multiple building complex means more than one principal building on a building plot or lot.

Natural channel means the topography of a waterway prior to construction, [or][??] installation of improvements thereof.

Natural drainage means a storm water runoff conveyance system not altered by development.

Natural state means substantially the same conditions of the land that existed prior to its development, including but not limited to the same type, quality, quantity and distribution of soils, ground cover, vegetation and topographic features.

Neighborhood means the area of the city characterized by residential land uses which is bounded by physical (such as river, major street, lack of access, buffer) and/or political features (such as voting districts, subdivision boundaries).

Neighborhood automobile service station means an establishment primarily engaged in automotive-related service. The following are permitted automotive-related services within such definition: automobile washing, minor automotive repair services, service stations, the sale of fuel, lubricants (including oil change facilities), parts and accessories, or any incidental minor repair services to motor vehicles.

Neighborhood park means a publicly owned parcel of land, within a subdivision, dedicated solely for recreational uses and maintained by the city or under authority granted by the city.

Night club means an establishment required to have a state permit for the sale of alcoholic beverages and in which fifty percent (50%) or more of the monthly gross revenues are from the sale of alcoholic beverages; or any business or commercial establishment in which alcoholic beverages are consumed on-premises and live entertainment is provided.

Nonconforming lot means a lot, the area, dimensions, or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption revision or amendment to conform to the present requirements of the zoning district.

Nonconforming structure or building means a structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

Nonconforming use means any building, structure or land lawfully occupied by a use or lawfully existing at the time of passage of this article or amendments thereto, which does not, by reason of design or use, conform after the passage of this ordinance or amendments with the regulations of the ordinance or amendment.

Occupancy means the use or intended use of land or a building by any person.

Occupant car ratio (OCR) means the minimum number of parking spaces without parking time limits required for each living unit, establishment or use.

Official county records means the official records of Bell County, Texas.

Off-site improvements means any required improvement that lies outside of the property being developed.

Off-street parking as expansion of retail or commercial use means an off-street parking lot located adjacent or contiguous to a retail, commercial or office district.

Off-street parking space means an area of privately owned land not less than nine (9) feet by eighteen and one-half (18-1/2) feet not on a public street or alley, with an all-weather surface. A public street shall not be classified as such, nor shall head-in parking adjacent to a public street and dependent upon such street for maneuvering space.

One hundred (100) year floodplain. See: Regulatory 100-year floodplain.

Open space means an area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves, porches, and plant material.

Open or outdoor storage means the keeping, in an unroofed area, of any goods, junk, material, or merchandise, in the same place for more than twenty-four (24) hours.

Overland drainage means storm water runoff which is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

Park or playground means an open recreation facility or park owned and operated by a public agency such as the city or the school district and available to the general public for neighborhood use, but not involving lighted athletic fields for nighttime play.

Parking lot means a parking area to accommodate the vehicles which utilize any multiple-family, retail, commercial, office, business or industrial property.

Parking space means an area that is not a street, alley or public right-of-way that is used or designed to be used for motor vehicle parking, that is not less than nine (9) feet by eighteen and one-half (18-1/2) feet, exclusive of the driveways connecting said space with a street or alley. Said parking space and connecting driveway shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile.

Parking structure or garage means a structure devoted to the parking or storage of automobiles for a fee and may include a facility for servicing of automobiles provided such facility is primarily an internal function for use only by automobiles occupying the structure and creates no special problems of ingress or egress.

Pasturage means land used primarily for the grazing of animal stock.

Paved area means an area surfaced with asphalt, concrete or similar pavement, providing an all-weather surface. Gravel is not an acceptable paved surface.

Performance standard means a set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

Permit issuing authority means the building official or other city officer, employee or agent designated by lawful authority to issue the applicable permit.

Permitted use means a use specifically allowed in the applicable zoning districts without the necessity of obtaining a conditional use permit.

Personal care facility means a facility that provides supervised living arrangements for persons with physical or mental disability, which by reason of federal or state law, is not subject to limitations set forth in deed restrictions or single-family zoning districts. This definition includes a community-based residential home operated by (i) the ==state department of mental health and mental retardation, (ii) a community center operated under section 3.01, Texas Mental Health and Mental Retardation Act (==article 5547-203 VATCS), which provides services to disabled persons, (iii) a nonprofit corporation, or (iv) any entity certified by the ==state department of human resources as a provider under the intermediate care facilities for the mentally retarded program. This definition includes homes for the handicapped as defined in 42 U.S.C. section 3602(h).

Personal services means an establishment engaged in providing services of a personal nature. Typical uses shall include beauty and barber shops, tailor, and shoe repair services.

Personal service shop means an establishment for the purpose of supplying limited personal services such as, but not limited to, barber, shoe, boot, or beauty shops.

Pharmacy means a use where medicines are compounded or dispensed under the supervision of a licensed pharmacist.

Planting area means any area designed for landscape planting having a minimum of ten (10) square feet of actual plantable area and a minimum inside dimension on any side of eighteen (18) inches.

Playfield or stadium means an athletic field or stadium owned and operated by a public agency for the general public including a baseball field, golf course football field or stadium which may be lighted for nighttime play.

POA neighborhood park means a privately owned parcel of land, within a subdivision, dedicated solely for recreational use by persons in such subdivision and their guests, and maintained by the residents of said subdivision.

Postal facilities means postal services, including post office, bulk mail processing, or sorting centers operated by the United States Postal Service or a private postal service.

Primary structure means a structure in which the principal use of the lot is conducted. For example, for single-family residential lots, the house is the primary structure.

Privacy fence means an opaque fence or screen of wood, masonry or a combination thereof at least six (6) feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so those gaps in the fence do not exceed one-half (1/2) inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half (1/2) inch and are dog eared picketing.

Private club means an establishment required to have a state-issued alcoholic beverage permit for the sale, storage or vending of alcoholic beverages on-premises to its members.

Private garage means an accessory building housing vehicles owned and used by occupants of the main building.

Product development services (general) means development and testing of non-hazardous products related to research services. See: Research services (general).

Product development services (hazard) means development and testing of products related to research services, which products could pose a health or safety risk outside of the structure in which the services are provided. See: Research services (hazard).

Professional office means a use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions licensed by the state.

Property owners' association (POA) means an incorporated, nonprofit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a subdivision or planned unit development or PUD is automatically a member, (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining common property, and (c) the charge, if unpaid, becomes a lien against the property.

Public means, with respect to land and interests in land within the city limits, the city; with respect to land and interests in land within the ETJ limits, the general public; and, with respect to the provision of any services or products by a business establishment, the general public.

Public grounds or building means a facility such as office buildings, and maintenance yards and shops required by branches of local, state or federal government for service to an area such as highway department yard or a city, county or school service center.

Public use means places of noncommercial public assembly or administrative functions where the primary activity is contained within a building(s), including but not limited to schools and government buildings.

Radio, television, microwave and similar towers means structures supporting antennae for transmitting or receiving any portion of the radio spectrum, but excluding noncommercial antennae installation for home use of radio or television.

Railroad spur or siding means a siding for spotting and unloading or loading boxcars or other railroad cars and which area is connected to a public street by a drive for access.

Railroad tracts means the right-of-way for railroad tracts, and includes siding, spurs, loading facilities, docks, yards or maintenance areas, and does not include passenger stations.

Rear yard means a space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

Recyclable materials means materials including, but not limited to, scrap steel, aluminum cans, appliances, paper, batteries, glass bottles, motor vehicles, motor vehicle parts, and machinery that have no economic value except as composition or salvage material.

Recycling collection use means use of property as a location where glass, paper, plastics and/or aluminum cans only are deposited in containers, with no sorting or processing on-site, and usually occurring as an accessory use on the property.

Recycling operation means the collection, buying, storage, or processing of recyclable materials such as glass, paper, plastics, liquids, wood or metals, which are then sorted or processed for use or shipment for the purpose of reuse and manufacture, excluding smelters and refining operations.

Recycling operations (indoor) means a recycling operation which is fully enclosed within permanent walls and roof of a building or, if windows and doors are present, which is capable of enclosure to insure compliance with the required performance standards in the I Districts as appropriate. The outside storage of recyclable materials in conjunction with the recycling operation inside a building is prohibited in an I District. A dust collection system may be located outside the main building.

Recycling operations (outdoor) means a recycling operation which occurs in the open, or partially within a building and partially in the open.

Regulatory 100-year floodplain means the one hundred (100) year floodplain as defined by the Federal Emergency Management Act (FEMA).

Religious assembly means a use (located in a permanent or temporary building) providing regular organized religious worship and religious education incidental thereto. See: Church.

Replacement trees means new landscape trees to be planted by the developer to replace significant trees removed during the development of property. A list of approved replacement trees can be obtained at the office of the city.

Required yard means the open space between a lot line and the buildable area within which no structure shall be located except as provided for herein.

Research services (general) means establishments engaged in research of an industrial or scientific nature not involving or requiring the use of any biological, chemical or other agent that could cause a hazard to adjacent property. Typical uses include electronics research laboratories, and development and testing of computer software packages.

Research services (hazard) means establishments engaged in research of an industrial or scientific nature involving or requiring the use of biological, chemical or other agents capable of causing a hazard to property or persons outside the structure in which conducted.

Reserve strip means a narrow strip of property usually separating a parcel of land from a roadway or utility line easement, that is characterized by limited depth which will not support development and which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited by these regulations unless their control is given to the city.

Retail food store means a retail establishment selling meats, fruits, vegetables, bakery products, dairy products, light hardware and other similar items which are purchased for use and/or consumption off the premises (may be a drive-in or supermarket).

Retail sales means the sale or rental of commonly used goods and merchandise for personal or household use. Typical uses may include department stores, furniture stores, or establishments providing the following products or services: home furnishings and appliances, household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, or specialty items; apparel, jewelry, fabrics, and like items; cameras or photography services; household electronic equipment, records, sporting equipment, kitchen utensils, small home appliances, art supplies and framing, arts and antiques, paint, interior decorating services, or office supplies; bicycles, wallpaper, carpeting and floor covering, or automotive parts and accessories (excluding service and installation).

Restaurant means an establishment engaged in the preparation and retail sale of food and beverages for on-premises consumption. Typical uses include diners, dinner-houses, but not a drive-in or fast food restaurant.

Reverse frontage lot means a double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

Right-of-way means a strip of land occupied or intended to be occupied by street, crosswalk, railroad, road, electric transmission line, or oil or gas pipeline, water main, sanitary or storm sewer main, or for other similar purpose or use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on the final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of

such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, wastewater lines, storm drains, or any other use involving maintenance by a public agency shall be dedicated to the public by the maker of the plat where such right-of-way is established.

Safety services means a facility to conduct public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

Salvage processing means the method or action to enhance recyclable materials for reuse, including, but not limited to, separating, baling, flattening, shredding, crushing, cleaning, or cutting for the purpose of preparing recyclable materials for reuse, excluding a smelter operation.

Same ownership means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stock holder, partner, or associate or a member of his or her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

School (business) means a business organized to operate for a profit and offering instruction and training in a service or art such as secretarial school, barber college, beauty school or commercial art school, but not including a commercial trade school.

School (commercial trade) means a business organized to operate for a profit and offering instruction and training in a trade such as welding, brick laying, machinery operation, mechanics and similar trades.

School (public or denominational) means a school under the sponsorship of a public or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including trade or commercial schools.

Servants' quarters means an accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

Setback line or building setback line means a line that marks the setback distance from the property line, and establishes the minimum required front, side or rear yard space of a building plot.

Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or other commercial enterprise the primary business of which is the offering of service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. See section 9.03.076 for related definitions and development standards pertaining to sexually oriented businesses.

Shopping center means a composite arrangement of shops and stores which provides a variety of goods and services to the general public, when developed as an integral unit.

Shrub means any self-supporting woody evergreen and/or deciduous species.

Side yard means a space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

Sign means any device or surface on which letters, illustrations, designs, figures, or symbols are painted, printed, stamped, raised, projected, illuminated, or in any manner outlined or attached and used for advertising purposes.

Significant tree means a living tree that the city desires to preserve to the greatest extent possible. All trees larger than eight (8) inches in caliper are significant trees.

Single-family attached means the use of a series of sites for two or more dwelling units, constructed with common or abutting walls and each located on a separate lot within the total development site.

Single-family detached means the use of a lot for only one dwelling unit.

Single-family dwelling means a building designed for or occupied exclusively by one (1) household. See: Single-family detached.

Site plan means a plan showing the use of the land, to include locations of buildings, drives, sidewalks, parking facilities, temporary and permanent erosion/sedimentation controls, and other structures to be constructed.

Slope means the vertical change in grade divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

Social club means a building or portion thereof or premises used or operated for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Square foot or square feet means the square footage computed from the outside dimensions of the dwelling or structure, excluding attached garages, attics, basements, open or screened porches.

Stable means an accessory building for quartering horses for private use of the resident when the stable building is set back from all adjacent property lines at least fifty feet (50'), is at least one hundred feet (100') from any adjacent residence and when the site contains minimum area of one (1) acre.

Stable, riding means an accessory building for quartering horses for commercial or private riding lessons, boarding, training or renting of horses when the stable building is set back from all adjacent property lines at least one hundred fifty feet (150'), contains a minimum of three acres of land and holds a conditional use permit.

State health department means the ==state department of health [department of state health services] or the ==state natural resource conservation commission (TNRCC) [commission on environmental quality (TCEQ)], as applicable.

Storage and distribution means an establishment offering wholesaling, storage, and warehousing services of nonhazardous materials in enclosed structures.

Storage garage means any premises and structure used exclusively for the storage of more than five (5) automobiles.

Story means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Street means any public or private right-of-way which affords the primary means of vehicular access to abutting property.

Street line means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

Street side yard means an area between any required building setback line and the side property line abutting a public right-of-way, and measured perpendicular to the building to the closest point of the side property line abutting the right-of-way.

Structural alterations means any change in the supporting members of a building, such as load-bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

Structural integrity means the ability of a structure to maintain stability against normal forces experienced by said structure.

Structure means any building or anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.

Structure, principal means the principal structure which fulfills the purpose for which the building plot is intended.

Subdivision means the division or redivision of land into two (2) or more lots, tracts, sites or parcels for the purpose of development, laying out any addition to the city, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park or other portion intended for use by the public, or for the use of any owner, purchaser, occupant, person or entity.

Swimming pool (commercial) means a swimming pool with accessory facilities that is not a part of the municipal or public recreational system or a private swim club and that is available to the general public for a fee.

Swimming pool (private) means a swimming pool constructed for the exclusive use of the residents of a single-family, duplex, multi-plex or multi-family dwelling, or other residential dwelling, located and fenced in accordance with city regulations and not operated as a business or maintained in a manner to be hazardous or obnoxious to adjacent property owners.

Tavern means an establishment required to have a state permit for the sale and on-premises consumption of beer, that is not licensed or permitted to sell any other alcoholic beverage.

Telephone exchange means switching relay and transmitting equipment, but not including public business facilities, storage or repair facilities.

Temporary field or construction office means a structure or shelter used in connection with a development or building project, for housing on-site the temporary administrative and supervisory functions, and for sheltering employees and equipment, related to the development.

Tourist home means a building other than a hotel where lodging is provided and offered to the public for compensation for not more than twenty (20) individuals and open to transient guests.

Townhouse means a structure on an individual lot, which is one of a series of three (3) or more dwelling units designed for single-family occupancy, which dwelling units are structurally connected, immediately adjacent to and abutting each other between individual dwelling units. A condominium apartment (as defined in section [chapter][??] 81, Texas Property Code) in a condominium structure may be considered a townhouse if no other dwelling unit or use of any kind exists immediately above or below it. Any project including three or more such condominiums or townhouses shall be considered a “townhouse project.”

Traffic impact analysis (TIA) means a study of the impacts of a development on the city’s transportation system.

Trailer camp or park means an area designed, arranged or used for the parking or storing of one or more auto trailers which are occupied or intended for occupancy as temporary living quarters by individuals or families.

Transportation services means a facility for loading, unloading, and interchange of passengers and baggage, between modes of transportation, including bus terminals, railroad stations and public transit facilities utilizing park and ride stations.

Tree means any self-supporting woody plant species which normally grows to an overall minimum height of fifteen (15) feet.

Tree survey means a scaled drawing accurately showing the location, caliper and critical root zone of significant trees in relation to the property boundaries.

Two (2) family dwelling means a building designed for or occupied exclusively by two (2) families.

Upholstery shop means a business establishment engaged in the installation of soft covering material such as fabric and underlayment for furniture and other objects. Except however, with respect to motor vehicles, it shall only include interior upholstery. In no event shall an upholstery shop include the manufacture or building of furniture or other objects.

Urbanization means the process of constructing public improvements required to support suburban or urban land use.

Utilities other than listed means any utility requiring a franchise, such as closed circuit television, distribution of steam, hot or chilled water or similar service requiring the use of public streets or easements.

Variance means an adjustment in the application of the specific regulations of this article to a particular parcel of property that, because of special conditions or circumstances

peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.

Variety store means a retail commercial establishment which supplies a variety of household goods, toys, limited light hardware items, candy, some clothing and other general merchandise.

Veterinary hospital means an establishment offering veterinary services and clinics for pets, small and/or large animals. Typical uses include pet clinics, care, treatment and temporary housing of livestock and large animals, with temporary housing of large animals permitted in an attached or adjacent roofed building, with three (3) or more sides having walls or a solid fence extending from the foundation to at least 3/4 of the distance to the roof line.

Veterinary services means an establishment offering veterinary services and clinics for pets and small domestic animals, with all activities and work indoors.

Video rental store means an establishment engaged in the sale or rental of motion pictures or games.

Vines means any woody or herbaceous plants, which may cling by twining, by means of aerial rootlets or by means of tendrils or which may simply sprawl over the ground or other plants.

Warehouse means an establishment engaged in the storage of merchandise or commodities in an enclosed structure.

Watershed means an area from which storm water drains into a given basin, river or creek.

Waterway means any natural or man-made channel conducting storm water from a two (2) year storm event at a depth of eight (8) inches or more and at a rate of fifteen (15) cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

Wood yard means a tract of property used for the storage of wood either for use as firewood or as a building material, containing a fence for safety and security.

Working days means Monday through Friday exclusive of city-recognized holidays.

Wrecking yard means any lot, tract, or building or structure upon which used automobiles or parts of used automobiles or other motor vehicles are stored for the primary purpose of obtaining parts for resale as an automotive or motor vehicle part.

Yard means an open space at grade between the principal and accessory buildings and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard depth means the shortest distance between a lot line and a yard line.

Yard, front means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street easement line and the main building or any projections thereof other than the projections of the usual steps,

balconies or bays, or un-air-conditioned porch. On corner lots the front yard shall be considered as parallel to the street upon which the yard has its least dimension.

Yard line means a line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

Yard, rear means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of steps, balconies or bays, or un-air-conditioned porches, accessory dwellings or detached garages.

Yard, side means a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of any building on the lot, or any projections thereof.

Zero-lot-line lot means a single-family lot that has a side wall along or near one of the lot lines so that a usable yard of a minimum of ten (10) feet from the side lot line to the building line is created on the other side of the lot.

Zoning means the division of a municipality into districts in an effort to achieve compatible land use relationships, and the associated establishment of regulations governing the use, placement, spacing and size of land and buildings in order to achieve that compatibility as defined in chapter 211 of the Texas Local Government Code.

Zoning map means the official certified map showing the division of the city into districts, which is a part of this zoning ordinance.

Zoning (spot) means the zoning or rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.

Zoning (strip) means, typically, commercial and/or retail zoning proposed to accommodate commercial or retail development, fronting a portion of a major street, usually one lot deep.

Zoo (private) means a facility housing and displaying live animals, reptiles or birds, privately owned and operated for a fee or for the promotion of some other enterprise.

Zoo (public) means a publicly owned zoo or similar facility owned and operated by a governmental entity or nonprofit zoological society where live animals, birds and reptiles are domiciled and displayed.

- (b) Any definition not expressly prescribed herein shall, until such time as defined by ordinance, be construed in accordance with customary usage in municipal planning and engineering practices.

(Ordinance 12-17-01 (ord. 2), sec. 5, adopted 12/17/2001)

§ 9.03.006. Application.

The provisions of this article shall, except as specifically provided otherwise in this article, apply to all land within the jurisdiction of the city.

(Ordinance 12-17-01 (ord. 2), sec. 6, adopted 12/17/2001)

§ 9.03.007. Exemptions.

The provisions of this article shall not:

- (1) Prohibit the continuation of plans, construction or designed use of a building for which a building permit was lawfully issued and which (i) is completed in its entirety within one (1) year from the effective date of this ordinance; and (ii) for which construction shall have been started within ninety (90) days after the effective date of this ordinance; provided that any such building, construction or use that is not in compliance with this ordinance shall be a nonconforming use; or
- (2) Apply to permits or commitments given by the city with reference to construction of public utility buildings prior to the passage of this ordinance.

(Ordinance 12-17-01 (ord. 2), sec. 7, adopted 12/17/2001)

§ 9.03.008. Enforcement of regulations.

- (a) No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the city for or with respect to any lot, tract or parcel of land within the city limits that is developed, or proposed to be developed, after the effective date of this ordinance, until all applicable requirements of this article have been satisfied and accepted by the city.
- (b) This article may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this article, with respect to any land or development within the city, [is punishable][??] by fine and penalties as provided herein.

(Ordinance 12-17-01 (ord. 2), sec. 8, adopted 12/17/2001)

§ 9.03.009. through § 9.03.030. (Reserved)

Division 2

Zoning Districts and Regulations**§ 9.03.031. General requirements and limitations.**

- (a) Conformity to zoning district required. No building shall be erected and no existing buildings shall be moved, structurally altered, added to or enlarged, nor shall any land, building or premises be used, or designated for use for any purpose or in any manner other than provided for hereinafter in the district in which the building, land or premises is located; provided, however, that necessary structural repairs may be made

where health and safety are endangered. Furthermore, no open space surrounding any building shall be encroached upon by a structure or reduced in any manner, unless the same shall conform to the regulations hereinafter designated for the district in which such building or open space is located.

- (b) Signs and billboards. No sign or billboard shall be erected, moved, altered, added to, enlarged, painted, or modified unless it shall conform to the provisions of this article and all applicable city ordinances governing the placement, location, permitting, construction and maintenance of signs. Except as otherwise expressly authorized by ordinance, all off-premises signs and billboards are expressly prohibited.
- (c) Structures and buildings. No building, structure or accessory structure shall be erected, converted or enlarged, nor shall any such existing building or structure be structurally altered or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, unless the same shall be done and completed in a manner to comply with all applicable city codes and ordinances, and such work and structure shall:
- (1) Conform to the setback, building site area, building location and land use regulations hereinafter designated for the district in which such building or open space is located.
 - (2) Not exceed the height limit herein established for the district in which such building is located, except as specifically authorized as follows:
 - (A) The height limits prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers, scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, necessary public or private utilities, conveyors, flag poles, and necessary mechanical appurtenances. The height limits and other applicable regulations for television, radio and communications towers and antennas may be established by separate ordinance.
 - (B) Public or semi-public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty (60) feet and churches and other places of worship may be erected to a height not exceeding seventy-five (75) feet when each of the required yards is increased by one (1) foot for each two (2) feet of additional building height above the height limits for the district in which the building is located.
- (d) Accessory structures and uses. Accessory structures designed, constructed and located for a use permitted in the district, in compliance with this article and all other applicable city ordinances, are permitted in each zoning district.
- (e) Conformity to construction plan requirements. No structure or building shall be erected, converted, enlarged, reconstructed or structurally altered unless construction plans meeting the requirements of this article have been approved by the city engineer and/or city building official.

- (f) Conformity to parking and loading space requirements. No structure or building shall be erected, converted, enlarged, reconstructed, or structurally altered unless it shall conform to the off-street parking and loading requirements of this article.
- (g) Conformity to landscaping and screening requirements. No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered unless it shall conform to the landscaping and screening requirements of this article.
- (h) Conformity to building setback requirements. No yard or other open space provided around any structure or building for the purpose of complying with provisions of this section shall be considered as providing a yard or open space for a building on any other lot.
- (i) Outdoor lighting. All outdoor lighting shall be installed and maintained in compliance with all applicable city ordinances. Such lighting shall be located and maintained in a manner as to not be directed onto any public street or adjacent property; provided that such lighting may be directed directly down upon a public street as provided for street lights.
 - (1) Multi-family and business. Outdoor lighting for multi-family, general retail, commercial and office will be in accordance with the provisions of this article and the city building codes. A lighting plan shall be included with the site plan submitted for a building permit.
 - (2) Residential. Outdoor lighting on residential property will be installed in accordance with applicable city ordinances. It will be located so as not to be directed directly upon adjoining property or create a nuisance for adjoining property owners. Lighting used for security purposes, which will be operated during night hours will be located as close as is practicable to main dwellings.
- (j) Height and placement requirements. Except as otherwise specifically provided in this article, no building shall be erected or maintained within the required building setbacks set forth herein, or which exceeds the height limits specified in the following Chart 1.

| CHART 1 | | | | | | | |
|-----------------|---------------------|-------------------|--------------------------|---------------------|-------------------------|--------------------------------|-------------------|
| Zoning District | Front Yard Setback | Side Yard Setback | Street Side Yard Setback | Rear Yard Setback | Min. Lot SF Area | Min. Lot Width | Max. Height Limit |
| R-1 | 15 min./25 ft. max. | 5 ft. | 15 ft. | 15 min./25 ft. max. | 6000 not less than 5700 | 60 ft. (1) | 35 ft. |
| R-1A | 25 ft. | 10 ft. | 15 ft. | 25 ft. | 7,500 | 60 ft. | 35 ft. |
| R-2 | 20 ft. | 5 ft. | 15 ft. | 10 ft. | 7,200 | 50 ft. | 35 ft. |
| R-3 | 25 ft. | 5 ft. | 15 ft. | 10 ft. | 7,000 | 50 ft. | 35 ft. |
| M (3) | 15 ft. | 5 ft. | 15 ft. | 9 ft. | 5,000 | 50 ft. See section 9.03.040(e) | 35 ft. |
| OS | 25 ft. | 10 ft. | 15 ft. | 25 ft. | 7,500 | 60 ft. | 35 ft. |
| A | 25 ft. | 25 ft. | 15 ft. | 25 ft. | 1 acre | 150 ft. | 35 ft. |
| GUI | 25 ft. | 15 ft. | 15 ft. | 15 ft. | 7,500 | 60 ft. | 35 ft. |
| CA | 20 ft. | 0 ft. | 15 ft. | 10 ft. | 6,000 | 50 ft. | 35 ft. |
| C | 25 ft. | 7 ft. | 15 ft. | 15 ft. | 5,750 | 50 ft. | 60 ft. |
| I | 25 ft. | 25 ft. | 25 ft. | 25 ft. | 5,750 | 50 ft. | 60 ft. |

- (1) On approval by the commission, R-1 lots may be 6,000 square feet in area but not less than 5,700 square feet, and lots may be 60 feet in width but not less than 50 feet in width. Cul-de-sac lots may have a minimum front lot width of 40 feet, measured at the front lot line.
 - (2) On approval by the commission, residential lots platted prior to 1980 having 5,700 square feet lot area may request a variance from one or more of the setback requirements. The commission shall consider the adjoining lot uses to determine whether reduction of the setback requirements is appropriate. Lots owned by the same person may be combined into one building site.
 - (3) In the M District, lots platted prior to 2000 being 50 feet by 100 feet shall be excepted from the minimum lot width, which shall be 50 feet, and excepted from the minimum lot square footage, which shall be 5,000.
- (k) Lot coverage. The maximum percentage of lot area which may hereafter be covered by the main building(s) and all accessory buildings shall not exceed that set forth in the following Chart 2. In the following zoning districts, the maximum building lot coverage must conform to the following schedule:

| CHART 2 | | |
|---------------------|---------------------------------------|---|
| District | Maximum Lot Coverage Main Building(s) | Coverage Main Buildings and All Accessory Buildings |
| R-1, R-1A, R-2, R-3 | 40% | 50% |
| M, A, OS | 50% | 60% |
| C, GUI | 60% | 70% |
| CA | 80% | 80% |
| I | 50% | 60% |

Open off-street parking and loading areas will not be considered as lot coverage under this subsection.

- (l) Floor area ratio. Except as hereinafter provided, no building or structure may be erected, added to or altered to exceed the maximum floor area ratio standards in the various zoning districts as set forth in the following Chart 3. In the following zoning districts, the maximum floor area ratio (FAR) for any building or structure shall be as follows:

| CHART 3 | | | |
|----------|--|----|-----------|
| District | Building Area - Maximum Floor Area Ratio (FAR) | | Land Area |
| C, CA | 1.8 | to | 1 |
| I | 1.5 | to | 1 |

Structures used for off-street parking of vehicles shall not be included in calculating building area to determine floor area ratio (FAR) standards.

- (m) Parking. Automotive vehicles or trailers not bearing current license plates and state motor vehicle inspection stickers, excluding racing cars, antique cars, and cars belonging to members of armed forces who are on active duty, shall be parked or stored on any residential area only in completely enclosed buildings. No vehicle, trailer

or major recreational equipment shall be parked or stored on any lot except that it shall be enclosed in a building or parked on a driveway or a concrete, paved or stone pad installed for such purpose and subject to the requirements herein.

- (1) Parking regulations. Where any structure is erected, reconstructed or converted for any of the business or commercial uses permitted in this article, designated on-street and off-street parking spaces shall be provided in a number not less than as provided in Chart 4 set forth hereinafter.
- (2) Handicap parking. Nonresidential handicap parking requirements are a minimum of one space for under fifty parking spaces, then one additional space for over fifty parking spaces up to one hundred spaces, and then one space per one hundred spaces up to five hundred. Over five hundred, it is one percent of total parking spaces. Dimensional requirements are twelve foot (12') width and eighteen foot (18') depth per handicap space. The location and design of handicapped parking spaces shall be as required by ordinance and state and federal law.
- (3) Maximum parking. The maximum number of parking spaces for a commercial or industrial use area shall not exceed 150% of the parking required pursuant to Chart 4.
- (4) Reduction of parking. The total number of required motor vehicle parking spaces for a nonresidential use may be reduced by 5% for each of the activities listed below provided by the owners or operators, up to a maximum 10% reduction in the total number of motor vehicle spaces:
 - (A) Participates in an area-wide carpool/vanpool ride matching program for employees; designating at least 10% of the employee motor vehicle parking spaces as carpool/vanpool parking and placing such spaces closer to the building than other employee parking;
 - (B) Providing showers and lockers for employees who commute by bicycle;
 - (C) Providing covered, secured bicycle parking racks or facilities;
 - (D) Providing a transit facility that is approved by the local transit authority, and related amenities. Related amenities include, but are not limited to, a public plaza, pedestrian sitting areas, and additional landscaping.
- (5) Development and maintenance standards for parking areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:
 - (A) Off-street parking areas for more than five vehicles and loading areas shall be effectively screened by a privacy fence, hedge or planting, on each side which adjoins a residential use or property situated in a residential area.
 - (B) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.

- (C) Access aisles shall be of sufficient width for vehicular turning and maneuvering.
- (6) Council determination. Off-street and on-street parking for all uses not within the categories above shall be adequate to meet the anticipated needs and shall be determined by the city council using standards outlined for special exception and with a view towards providing adequate parking and carrying out the general scheme of the parking requirements herein set out.
- (7) Special exception. The city council may grant a special exception to allow two or more uses to share parking spaces upon a showing that the particular uses in question will require parking at different times. Any spaces the council allows to be shared count toward the number of spaces each use must provide.

| CHART 4 | |
|---|---|
| Use | Number of Parking Spaces |
| Residential dwellings, single-to multi-family, and manufactured homes | Two spaces minimum for each living unit, and one-half (1/2) space for each additional bedroom above two |
| Warehouses, manufacturing plants and other similar commercial establishments not catering to the general public | One space per 1,000 feet of gross floor area |
| Hotels, motels and similar transient accommodations | One space per bedroom and one space for each two employees |
| Rest homes, hospitals, nursing homes, convalescent homes, sanitariums, and similar uses | One space for each two employees, and one space for each four patient beds |
| Bars, cafes, restaurants, taverns, night clubs, and similar uses. | One space for every four seats provided for customer services |
| Banks, offices, financial lending institutions, gasoline stations, personal service shops, retail establishments, shopping centers and similar uses catering to the general public. | One space for each 250 feet of gross floor area |

- (n) Uses noncumulative. Uses within each district are restricted solely to those uses expressly permitted in each district, and are not cumulative unless so stated.
- (o) Exceptions. Nothing in this section shall prohibit the approval of a comprehensive zero-lot-line residential development or other innovative housing development in compliance with the other terms and provisions of this article.
- (p) Mandated exceptions. To the extent required by state or federal law, a personal care facility is an additional permitted use in any zoning district; provided that:
 - (1) Homes and residential units not designated and constructed in compliance with the ordinance and code requirements applicable to multiple-occupancy residential buildings and nursing homes, shall meet the following requirements:
 - (A) The structure shall comply with provisions of the fire code, electrical code and building code that are applicable to nursing homes;
 - (B) There shall be two (2) parking spaces, plus one additional space for each three residents;
 - (C) There shall be not less than fifty square feet of living space within a sleeping room for each occupant assigned to such room;
 - (D) There shall be not less than 175 square feet of living area in the structure for each occupant/resident of the structure, and attendant on duty; and

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- (E) The structure and operations shall comply with the standards established by the state department of human services as licensing standards for personal care facilities for a Type B facility;
- (2) The home must meet all applicable state licensing requirements;
- (3) A personal care facility must have at least one paid staff member on duty 24 hours per day, and one supervisor for each six (6) residents during waking hours;
- (4) A personal care facility may not have more than fifteen (15) residents.

(Ordinance 12-17-01 (ord. 2), sec. 20, adopted 12/17/2001; Ordinance 2-14-05 adopted 2/14/2005)

§ 9.03.032. Establishment of zoning districts.

- (a) The city is hereby divided into eleven (11) zoning districts, the use, height and area regulations as set out herein shall be uniform in each district. The eleven (11) districts established shall be known as:

| Abbreviated Designation | Zoning District Name |
|-------------------------|------------------------------------|
| A | Agricultural |
| C | Commercial |
| CA | Central Area |
| GUI | Government, Utility, Institutional |
| I | Industrial |
| M | Manufactured Housing |
| OS | Open Space |
| R-1 | Single-Family Residential |
| R-1A | Single-Family Residential |
| R-2 | Single-Family Residential |
| R-3 | Multi-Family Residential |

- (b) Zoning map. The location and boundaries of the districts herein established are shown upon the zoning map, which is hereby incorporated and made a part of this article; provided that such uses as listed but not shown on the zoning map are provided for future growth and use upon amendment of the comprehensive plan. The city building official maintains the zoning map together with all notations, references, and other information shown thereon and all amendments thereto.
- (c) District boundaries. Where uncertainty exists with respect to the boundaries of the established districts as shown on the zoning map, the following rules shall apply:

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- (1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines shall be construed to be said boundaries.
- (2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- (3) Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, or the centerlines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale on said zoning map.
- (4) In subdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.
- (5) If a district boundary line divides a property into two (2) parts, the district boundary line shall be construed to be the property line nearest the district line as shown.
- (6) Whenever any street, alley or other public way is vacated by the city council, the zoning district shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the districts as extended.
- (7) Where the streets on the ground differ from the streets shown on the zoning map, those on the ground shall control.

(Ordinance 12-17-01 (ord. 2), sec. 21, adopted 12/17/2001)

§ 9.03.033. Zoning of annexed areas.

- (a) Interim zoning district. All territory hereafter annexed to the city shall be automatically classified as Residential District R-1, pending subsequent action by the commission and council for permanent zoning; provided that upon application, by either the city or the property owner of the land being annexed, for zoning other than Agricultural, notice may be given and hearings held in compliance with chapter 211 of the Texas Local Government Code and, upon annexation, such property may be permanently zoned as determined by the city council after considering the commission's recommendation.
- (b) Permits in interim zoned areas. In an area temporarily classified as Residential District R-1, no permits for the construction of a building or use of land other than uses allowed in said district under this article shall be issued by the city building official.

(Ordinance 12-17-01 (ord. 2), sec. 22, adopted 12/17/2001)

§ 9.03.034. Agricultural district - District A.

The Agricultural District is intended to be used principally for agriculture and those other related uses which are an integral part of the agricultural operation. This district is intended to preserve the larger tracts of land for future economic development in accordance with the

master plan, while in the interim, permitting agricultural uses on the land to continue. A building or premises shall be used only for the following purposes:

- (1) Single-family dwellings.
- (2) Farms accessory buildings, garden, orchard, plant nurseries and truck gardens each limited to the propagation and cultivation of plants, provided no retail or wholesale business is conducted on the premises.
- (3) Ranches; including the feeding, raising and breeding of agricultural livestock; however, with exception of commercial feed lots; provided that no poultry or livestock other than household pets shall be housed within fifty (50) feet of any property line.
- (4) Parks, playgrounds, community buildings and other public recreational facilities that principally retain the original natural state of the land; owned and/or operated by the municipality or other governmental entity.
- (5) Water supply reservoirs and pumping plants when screened from public view.
- (6) Accessory buildings and uses as follows:
 - (A) Residential.
 - (i) The term “accessory use” shall include customary home occupations such as the office of a milliner, dressmaker, family home, musician or artist, provided that such uses are located in the dwelling used by such a person as his or her private residence, and provided that no assistant not a member of the family residing on the premises is employed, and no window display or sign is used to advertise same.
 - (ii) A private garage with or without storeroom and/or utility room shall be permitted as an accessory building. A garage or servant’s quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building.
 - (B) Agricultural.
 - (i) Accessory buildings, structures or uses which are in addition to and directly associated with any permitted use, including burning brush from various agricultural operations on farm or ranch land to the extent permitted by state law.
 - (ii) Solar collector and/or wind generator designed to supply energy for use on the premises.
- (7) Conditions and limitations.
 - (A) Height limit:
 - (i) Residential. No residential or related structure in this district shall exceed thirty-five (35) feet or two and one-half (2-1/2) stories in height.

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(ii) Agricultural. No agricultural or related structure in this district shall exceed sixty (60) feet in height, excluding silos and similar appurtenances which are exempt from this article.

(B) See Chart 1.

(C) Density: One (1) residence may be constructed or placed on a parcel of land for each twenty-five (25) acres of land in this district.

(D) See Chart 2.

(E) See Chart 4.

(Ordinance 12-17-01 (ord. 2), sec. 23, adopted 12/17/2001)

§ 9.03.035. Single-Family Residential 1 - District R-1 and R-1/R-2.

(a) Purpose and permitted uses.

(1) Single-Family Residential 1 - District R-1. Permits detached single-family dwellings with a minimum of 1,000 square feet of living area, and related accessory structures, on a minimum lot size of 7,000 square feet.

(2) Single-Family Residential 1 - District R-1/R-2.

(A) Purpose and permitted uses. Permits detached single-family dwellings with a minimum of 1,000 square feet of living area, and related accessory structures, on a minimum lot size of 7,000 square feet. In addition, such district shall allow detached single-family residences and/or duplexes with a minimum of 1600 square feet of living area along with permitted accessory structures on a minimum lot size of 7,200 square feet.

(B) Location of district. This R-1/R-2 District is for the area beginning at the northeast corner of the intersection of Dixie and Sumbera and ending at the southwest side of the intersection of North Hogan and Sumbera.

(b) Additional permitted uses.

(1) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.

(2) Public buildings, including libraries, museums, police and fire stations.

(3) Real estate sales offices during the development of a residential subdivision but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are converted to a permitted use within a period of one (1) year, specific permission must be obtained from the city council for said display houses to remain.

(4) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.

(5) Water supply reservoirs, pumping plants and towers.

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- (6) Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise.
- (c) Conditions and limitations.
 - (1) See Chart 1.
 - (2) See Chart 4.
 - (3) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of an unilluminated “For Sale” or “For Rent” sign not more than eight (8) square feet in area may be permitted as an accessory use, and churches and other institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) unilluminated sign advertising contractors or architects on such premises shall be permitted provided that such sign shall not be more than eight (8) square feet in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.

(Ordinance 12-17-01 (ord. 2), sec. 25, adopted 12/17/2001; Ordinance 041116 adopted 4/11/2016)

§ 9.03.036. Single-Family Residential 1-A - District R-1A.

- (a) Purpose and permitted uses. Permits detached single-family dwellings with a minimum of 1,700 square feet of living area, and related accessory structures, on a minimum lot size of 7,500 square feet.
- (b) Additional permitted uses.
 - (1) Real estate sales offices during the development of a residential subdivision but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are converted to a permitted use within a period of one (1) year, specific permission must be obtained from the city council for said display houses to remain.
 - (2) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
 - (3) Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise.
 - (4) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of an unilluminated “For Sale” or “For Rent” sign not more than eight (8) square feet in area may be permitted as an accessory use, and churches and other institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) unilluminated sign advertising contractors or architects on such

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premises shall be permitted provided that such sign shall not be more than eight (8) square feet in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.

(c) Conditions and limitations.

(1) See Chart 1.

(2) See Chart 4.

(Ordinance 12-17-01 (ord. 2), sec. 25.1, adopted 12/17/2001)

§ 9.03.037. Single-Family Residential 2 - District R-2.

(a) Purpose and permitted uses. Allows detached single-family residences and duplexes with a minimum of 1,600 square feet of living area and permitted accessory structures on a minimum lot size of 7,200 square feet.

(b) Additional permitted uses. As set forth in section 9.03.035(b).

(c) Conditions and limitations. See section 9.03.035(c).

(Ordinance 12-17-01 (ord. 2), sec. 26, adopted 12/17/2001)

§ 9.03.038. Multi-Family Residential - District R-3.

(a) Permitted uses. Permits attached single-family structures with a minimum of 500 square feet of living area and permitted accessory structures generally known as apartments, with buildings not exceeding 3 stories, not more than 21 units per acre.

(b) Conditions and limitations.

(1) More than one building or structure may be located upon a lot.

(2) All buildings and structures shall be separated by a minimum horizontal distance of ten (10) feet.

(3) Unless otherwise satisfied pursuant to the city's subdivision ordinance, one (1) acre per one hundred (100) dwelling units, or 5% of the total site area, whichever is greater, shall be provided to satisfy recreational open space requirements; provided that the council may, at its discretion, require the payment of the established fee in lieu of land dedication for each such dwelling unit. Such recreational open space shall be located or arranged so as to function as a recreational area and be uniformly beneficial to all of the dwelling units in the project or development. Open space required to separate structures shall not be considered to be a part of the required recreational open space.

(4) Parking:

(A) There shall be a minimum five (5) foot setback from the rearmost wall of any garage, and from the curb line of any parking area, to the nearest property line.

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- (B) Private garages and covered parking, if any, may be attached or detached.
 - (C) A minimum of two (2) off-street parking spaces shall be provided for each living unit. All off-street parking and driveways shall be improved with all-weather asphalt, concrete, or paving stones, and curb and gutter.
 - (5) The commission and the council may consider number of units proposed, the availability of mass transit and the impact the development may have on existing traffic patterns, with respect to any application for multi-family zoning.
 - (6) See Chart 1.
 - (7) See Chart 4.
 - (c) Site development regulations. The following site development regulations shall be applicable to apartment buildings and property zoned Multi-Family Residential, District R-3:
 - (1) Maximum dwelling units per acre: 21 units.
- (Ordinance 12-17-01 (ord. 2), sec. 34, adopted 12/17/2001)

§ 9.03.039. Open Space - District OS.

- (a) An open space district is a tract of land provided as a general benefit for the community. Common open space must be usable for recreational purposes or must provide visual, aesthetic and environmental amenities. The uses authorized for the common open space should be appropriate to the scale and character of the surrounding development considering its size, density, expected population, topography, and the number and type of dwellings to be provided. As a minimum, the total open space shall not be less than required for parks in the subdivision ordinance. Common open space should be improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved. Any buildings, structures and improvements to be located in the common open space must be appropriate to the uses which are intended therefor, and must conserve and enhance the amenities of the common open space having regard to its topography and the intended function of the common open space.
- (b) The uses permitted for this district are:
 - (1) Cemeteries (conditional use).
 - (2) Conservation areas.
 - (3) Golf courses.
 - (4) Outdoor recreational and athletic facilities.
 - (5) Outdoor swimming pools.
 - (6) Neighborhood parks, common open space, common open area, playgrounds and play fields.
 - (7) Wildlife sanctuaries.

- (c) Permitted secondary uses are as follows:
- (1) Club houses and community centers.
 - (2) Retail-oriented uses which are clearly secondary and customarily or necessarily incidental to the permitted use including but not necessarily limited to the following:
 - (A) Retail sales and services operated as part of a golf course, recreational or athletic facility.
 - (B) Retail sales and services sponsored by service clubs, nonprofit societies or organizations and concessions contracted with the city.
 - (C) Food and beverage sales, including alcoholic beverages (with a conditional use permit) to members only.
 - (D) Restaurants including alcoholic beverage sales which are operated as part of or in conjunction with a club house facility for members only.
 - (3) Caretaker residence.
 - (4) Maintenance buildings required to house equipment and material to maintain the site.
 - (5) See Chart 1.
 - (6) See Chart 4.

(Ordinance 12-17-01 (ord. 2), sec. 35, adopted 12/17/2001)

§ 9.03.040. Manufactured Home - District M.

- (a) Purpose and permitted uses. Manufactured homes.
- (b) Conditions and limitations.
 - (1) Manufactured homes must have a minimum of one thousand (1,000) square feet of living area.
 - (2) Manufactured homes must be skirted within ninety (90) days from date installed.
 - (3) Manufactured homes must be tied down securely and in compliance with applicable regulations prior to occupancy.
 - (4) See Chart 1.
 - (5) See Chart 4.
- (c) Authorized in specified areas. No manufactured home may be located in any district other than M.
- (d) Standards. The installation, occupancy and maintenance of manufactured homes in the M District shall be subject to the following provisions.

- (1) No outside horizontal dimension shall be less than 14 feet, except for original extensions or subsequent additions containing less than 50 percent of the total enclosed floor area.
- (2) The exterior siding material, excluding skirting, shall be nonmetallic.
- (3) The structures shall be of adequate quality and safe design, as certified by a label stating that the unit is constructed in conformance with the federal mobile home construction and safety standards in effect on the date of manufacture, or other such applicable standards as required by state or federal law. Any such structure without such certification, but meeting all other requirements, may be accepted as safe and quality construction provided it meets the following criteria:
 - (A) All electrical material, devices, appliances, and equipment are in sound and safe condition. Aluminum conductors are not acceptable.
 - (B) All mechanical systems, including space and water heating, are in sound and safe condition.
 - (C) All plumbing, gas piping, and wastewater systems are in sound and safe condition.
 - (D) The unit is in sound and safe structural condition. Uncompressed finish floorings greater than 1/8 inch in thickness beneath loadbearing walls that are fastened to the floor structure are not acceptable. Any such structure that shows signs of fire damage will not be acceptable.
 - (E) The determination of the foregoing acceptance of any noncertified unit shall be made by the building official and/or the fire marshal.
- (4) Manufactured homes shall be installed in accordance with the following criteria:
 - (A) By a person licensed by the State of Texas in compliance with state law, or the frame shall be supported by, and tied to, a foundation system capable of safely supporting the loads imposed as determined from the character of the soil. The minimum acceptable foundation design shall be a series of eight-inch grout-filled concrete block piers spaced no more than eight feet on center and bearing on 12" x 12" solid concrete footings. A tie-down and anchoring system separate and apart from the foundation ties shall be provided as recommended by the manufacturer, if different from the foundation ties.
 - (B) Axle and hitch assemblies shall be removed at the time of placement on the foundation.
 - (C) Each manufactured home shall be totally skirted with metal, masonry, pressure-treated wood, or other nondegradable material which is compatible with the design and exterior materials of the primary structure.
 - (D) Electrical power supply shall be from a meter installation on the mobile home, or from a permanent meter pedestal.

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- (E) Driveways and off-street parking shall be provided in accordance with the requirements for single-family dwellings.
 - (F) Garage and carport additions are permitted, provided they cover a paved parking area and are connected to a street by a paved drive, meet the minimum building setback requirements, and have roof and siding material compatible with the primary structure.
 - (G) Patio and porch covers are permitted, provided they cover an improved patio, deck, or porch, and meet the minimum building setback requirements.
 - (H) Living area additions are permitted, provided they meet the minimum building setback requirements, have roof and siding material that is compatible with the primary structure, and comply with the same structural standards as the primary structure.
 - (I) All accessory structures and additions shall comply with all applicable city ordinances.
- (e) Site development regulations. The average depth of the lot shall not be less than one hundred twenty (120) feet, except a corner lot, having a minimum width of not less than ninety (90) feet may have an average depth of less than one hundred twenty (120) feet provided that the minimum depth is no less than ninety (90) feet.
- (Ordinance 12-17-01 (ord. 2), sec. 37, adopted 12/17/2001)

§ 9.03.041. Central Area - District CA.

- (a) Purpose and permitted uses. This district is intended to address development in the original town and central area of the city, allowing a mix of uses including, retail, restaurants with on-premises alcoholic beverages—beer and wine consumption, office, light commercial uses. In addition, on-site residential uses accessory to an ongoing and concurrent primary business or commercial use allowed within the CA district are permitted. On-site residential uses shall be subject to the conditions and limitations set forth in this section. This district permits low-rise garden-type office development to a maximum of two stories for use in providing professional and other business offices.
- (b) Conditions and limitations.
 - (1) All activities shall be conducted wholly within an enclosed building, except for deliveries.
 - (2) Required yards and outdoor areas shall not be used for display, sale vehicles, equipment, containers, or waste material, save and except for screened dumpster collection areas.
 - (3) On-site residential uses within the CA district shall be subject to the following limitations and requirements:
 - (A) Any improvements constructed for on-site single-family residential uses shall comply with all city building codes and regulations in effect at the

time of construction. No on-site residential uses under this section shall be permitted until a certificate of occupancy is issued for the improvements.

- (B) On-site residential use within the CA district is restricted and limited to the owner of the accompanying business and owner's family.
 - (C) On-site residential use is limited to one single-family residential unit or apartment for each legal business use; the maximum floor area of the residential unit shall not exceed 50% of the total floor area of the business or commercial use area.
 - (D) An on-site residential use must be concurrent with an existing business or commercial use that complies with the existing CA District regulations.
 - (E) The termination or cessation of the primary business or commercial use, or closing of the primary business, shall immediately terminate the accessory on-site residential use.
 - (F) No multi-family uses are permitted within the CA district.
- (4) Gasoline sales are not permitted.
 - (5) Alcoholic beverage sales for off-premises consumption and mixed-drink sales are not permitted.
 - (6) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that, excluding that caused [by][??] customer and employee vehicles, such odors, smoke, dust, noise or vibration be generally contained within the property.
 - (7) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within any required yard. Signs may be illuminated but must be stationary and non-flashing and not within twenty-five (25) feet of any residential district. All signs shall comply with all applicable provisions of this article and any other applicable ordinance of the city.
- (c) Site development regulations.
- (1) Paved sidewalks, driveways and parking areas are required.
 - (2) Screening of loading and storage facilities is required.

(Ordinance 12-17-01 (ord. 2), sec. 41, adopted 12/17/2001; Ordinance 05142012 adopted -/-/2012)

§ 9.03.042. GUI Institutional District.

- (a) Purpose. This district is intended to provide appropriate areas for uses that provide important community services often requiring large amounts of land. Uses permitted in the GUI District generate a large amount of traffic. Only land abutting a major street that can be used for access shall be considered appropriate for GUI classification. An appropriate site should also contain adequate space for required off-street parking and buffering.

(b) Permitted uses.

- (1) Facilities owned and operated by the federal government, the state or political subdivisions thereof, including public grounds;
- (2) Fire station and safety services;
- (3) Schools, public, denominational, kindergarten and pre-school, college, university, dormitory and group student housing;
- (4) Uses required by public utilities, railroad spur and tracts, and public transportation services;
- (5) Public athletic fields, stadium, sports facilities, playgrounds, neighborhood park, greenbelt, recreational centers, community centers and swimming pools;
- (6) Churches, rectory and places of worship; and
- (7) Accessory uses customarily incidental to any of the foregoing permitted uses.

(c) Conditional uses permitted upon authorization of city council.

- (1) Cultural services.
- (2) Halfway house and institution for the care of substance dependent persons.

(d) Conditions and limitations.

- (1) See Chart 1.
- (2) See Chart 4.

(Ordinance 12-17-01 (ord. 2), sec. 42, adopted 12/17/2001)

§ 9.03.043. Commercial - District C.

(a) Purpose and permitted uses. This district allows a mix of commercial uses including, retail, office, light commercial, and similar uses excluding residential and multi-family. This district allows the retail sale of goods and products (in the following listed use areas) to which value has been added on-site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed, and the following:

- (1) Automobile repair (minor), neighborhood automobile service station, gasoline station (full and limited), filling or retail service station and garage (commercial).
- (2) Automobile repair (major), auto sales (outdoor) and auto sales facility.
- (3) Banks, savings and loans, credit unions and financial services.
- (4) Business and commercial schools.
- (5) Churches, rectories and places of worship.

- (6) Convenience store, retail food store, grocery stores and supermarkets (not including gasoline or alcohol sales).
 - (7) Convenience stores, retail food store, grocery stores and supermarkets (including the sale of off-premises alcoholic beverages and/or gasoline with conditional use permit) and retail stores for the sale of alcoholic beverages (beer, wine and liquor) for off-premises consumption.
 - (8) Hotels, tourist homes, and motels.
 - (9) Packaging of honey, herbs, spices and peppers produced in the region; limited to small business operations having less than five thousand (5,000) square feet of enclosed building area and not more than five (5) employees on-site.
 - (10) Personal service uses including barber shops, beauty parlors, photographic or artist studios, messengers, newspaper or telegraphic agencies, dry cleaning and pressing substations, dressmaking, tailoring, shoe repairing, repair of household appliances, electronics and bicycles, catering and other personal service uses of similar character.
 - (11) Restaurant, cafe or cafeteria, drive-in eating establishment (no alcoholic beverage sales).
 - (12) Restaurant, cafe or cafeteria, drive-in eating establishment with beer and wine alcoholic beverage sales for on-premises consumption (with conditional use permit).
 - (13) Telephone exchange, postal facilities and communication service.
 - (14) Veterinary services and hospital.
 - (15) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and distribute goods and materials, and are in general dependent on raw materials refined elsewhere.
- (b) Conditions and limitations.
- (1) That C-1 activities be conducted wholly within an enclosed building, except for delivery, gasoline sales, nurseries, garden centers and auto sales to be conducted within a building and/or outdoor area that is improved with concrete, asphalt pavement or other all-weather surface and that is suitably landscaped, screened or fenced.
 - (2) That all merchandise be new, first-hand and be sold on the premises, save and except for delivery only including catering.
 - (3) That required yards and outdoor areas not be used for display, sale [of][??] vehicles, equipment, containers or waste material, save and except for screened dumpster collection areas.

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- (4) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that, excluding that caused customer and employee vehicles, such odors, smoke, dust, noise or vibration be generally contained within the property.
- (5) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within any required yard nor within twenty-five (25) feet of any residential district. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this article and any other applicable ordinance of the city.

(c) Site development regulations.

- (1) Development in any use permitted in the C District shall conform with the site development regulations established for that district.
- (2) Paved sidewalks, driveways and parking areas are required.
- (3) Screening of loading and storage facilities is required.

(Ordinance 12-17-01 (ord. 2), sec. 43, adopted 12/17/2001)

§ 9.03.044. Industrial - District I.

(a) Purpose and permitted uses. This district is designed to provide locations for outlets offering goods and services to a targeted segment of the general public as well as industrial users. No building or land shall be used, and no building hereafter shall be erected, maintained, or structurally altered, except for one (1) or more of the uses hereinafter enumerated. Allows assembly, packaging and manufacture of non-hazardous, non-volatile products and the following listed uses:

- (1) Alcohol beverage—mixed drink and beer and wine alcohol beverages (with conditional use permit) for on-and off-premises consumption.
- (2) Furniture manufacturers and upholsterers.
- (3) Light manufacturing.
- (4) Tire (retreading operations).
- (5) Warehouse, storage and distribution center.
- (6) Recycling operation (indoor and outdoor).
- (7) Fertilizer plant.
- (8) Sexually oriented businesses.
- (9) Gas and petroleum storage (conditional use permit).
- (10) Railroad spurs and tracts.

(b) Conditions and limitations.

- (1) That it be conducted within a building and/or outdoor area that is improved with concrete, asphalt pavement or other all-weather surface and that is suitably landscaped, screened or fenced.
 - (2) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance.
 - (3) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within twenty-five (25) feet of any residential district. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this article and any other applicable ordinance of the city. Alcoholic beverage sales are not permitted without a conditional use permit first being obtained.
 - (4) See Chart 1.
 - (5) See Chart 2.
 - (6) See Chart 3.
 - (7) See Chart 4.
- (c) Site development regulations. Paved sidewalks, driveways and parking areas are required.
- (d) Performance standards - Light Industrial Districts. All uses in the I (Industrial) Districts, District I, shall conform in operation, location and construction to the minimum performance standards herein specified for noise, odorous matter, toxic and noxious matter, glare, smoke, particulate matter and other air contaminants, fire, explosive and hazardous matter, and vibration.
- (1) At no point at the bounding property line of any use in an I District may the sound pressure level of any operation or plant exceed the decibel limits specified in the octave band groups designated in the following table.

(A) Maximum permissible daytime* octave band - decibel limits at the bounding property line** in an I District:

| | | | | | | | | | |
|--|----|-----|-----|-----|------|------|------|------|-------|
| Octave band (CPS) | 37 | 75 | 150 | 300 | 600 | 1200 | 2400 | 4800 | A |
| | 75 | 150 | 300 | 600 | 1200 | 2400 | 4800 | 9600 | Scale |
| Decibel band limit (dB re 0.0002 microbar) | 82 | 76 | 68 | 60 | 56 | 53 | 50 | 48 | 62 |

Note: A scale level is provided for monitoring purposes only and is not applicable to detailed sound analysis.

*Daytime shall refer to the hours between sunrise and sunset on any given day.

**The building official will interpret the bounding property line for noise enforcement as being at the nearest right-of-way or property line of any street, alley, stream or other permanently dedicated open space from the noise source when such open space exists between the property line of the noise source and adjacent property. When no such open space exists, the common line between two parcels of property shall be the bounding property line.

(B) The following corrections will be made to the table of octave band decibel limits in determining compliance with the noise level standards in an I District. When noise is present at night (any time other than daytime) subtract 7 decibels. When noise contains strong, pure tone components or is

impulsive, that is when meter changes at 10 decibels or more per second, subtract 7 decibels. Add ten (10) decibels when noise is present for not more than:

- (i) 1/2 minute in any 1/2 hour period;
 - (ii) 1 minute in any 1 hour period;
 - (iii) 10 minutes in any 2 hour period; or
 - (iv) 20 minutes in any 3 hour period.
- (C) Measurement of noise is made with a sound level meter or octave band analyzer meeting the standards prescribed by the American Standards Association.
- (2) Smoke and particulate matter. No operation or use in an I District shall cause, create or allow the emission of air contaminants which violate state or federal environmental laws, as referenced herein: Texas Health and Safety Code Ann. chapters ==381 and 382, Air Pollution Prevention and Control, 42 U.S.C.A. 67401 et seq. Open storage and open processing operations, including on-site transportation movements which are a source of wind or airborne dust or other particulate matter, are subject to the standards and regulations specified herein.
- (3) Odorous matter. No use may be located or operated in an I District 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. The odor threshold as herein set forth is determined by observation by the building official. 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 as specified by American Society for Testing Materials, ASTM D 1391-57, entitled "Standard Method for Measurement of Odor in Atmospheres," will be used and a copy of ASTM D 1391-57 is hereby incorporated by reference.
- (4) Flammable and explosive materials. No use involving the manufacture or storage of compounds or products which decompose by detonation is permitted in an I District 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 marshal of the city as not presenting a fire or explosion hazard. The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose films, solvents and petroleum products is permitted only when such storage or use conforms to the standards and regulations established by city ordinance.
- (5) Toxic and noxious matter. No operation or use permitted in an I District may emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which exceeds the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the ==state department of health [department of

state health services] in Threshold Limit Values Occupational Health Regulation No. 3, as such regulations exist or may later be amended.

- (6) Vibrations. No operation or use in an I District may at any time create earthborne vibration which, when measured at the bounding property line of the source of operation, exceeds the limit of displacement set forth in the following table in the frequency ranges specified.

| Frequency Cycles per Second | Displacement in Inches |
|-----------------------------|------------------------|
| 0 to 10 | .0010 |
| 10 to 20 | .0008 |
| 20 to 30 | .0005 |
| 30 to 40 | .0004 |
| 40 to 50 | .0003 |

- (7) Glare. No use or operation in an I-1 District may be located or conducted so as to produce intense glare or direct illumination across the bounding property line from a visible source of illumination nor may any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

(Ordinance 12-17-01 (ord. 2), sec. 47, adopted 12/17/2001)

§ 9.03.045. through § 9.03.070. (Reserved)

Division 3

Site Development Plan Requirements and Special Provisions

§ 9.03.071. Construction plans.

- (a) Purpose and applicability. Construction plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces, and general conformance with the master plan and ordinances of the city. Construction plan approval by the city engineer shall be required for any development or improvement of land subject to this article, and not otherwise required by city’s subdivision ordinance.
- (b) Format. Construction plans shall be drawn on twenty-four inch by thirty-six inch (24" x 36") sheets at a generally accepted engineering scale, and sufficient to thoroughly meet the informational requirements herein.
- (c) Content. Construction plans shall include all of the land proposed to be developed or improved, and any off-site improvements required to accommodate the project. Construction plans shall contain, or have attached thereto:
 - (1) A cover sheet, showing:

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- (A) Names, addresses and phone numbers as applicable of the record owner and developer, if any, and all authorized agents including the architect, engineer, landscape architect, and surveyor.
- (B) The proposed name of the project.
- (C) A location map showing the relation of the project to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.
- (D) Certification, revision and signature blocks as required by the city.
- (E) The total acreage of the property to be developed.
- (F) Current zoning district as defined by this article.
- (G) An existing conditions plan, showing as follows:
 - (i) Boundary of existing zoning districts, if applicable.
 - (ii) The existing property lines, including bearings and distances, of the land being developed or improved. Property lines shall be drawn sufficiently wide to provide easy identification.
 - (iii) The location of existing structures and improvements, if applicable.
 - (iv) The accurate location, caliper and critical root zone of significant trees 8-inch caliper and larger, in relation to the property boundary and, if applicable, within the limits of the proposed off-site improvements.
 - (v) Centerline of watercourses, creeks, existing drainage structures and other pertinent data shall be shown.
 - (vi) Lines delineating the regulatory one hundred (100) year floodplain, if applicable.
 - (vii) Topographic data indicating one (1) foot contour intervals. The contoured area shall extend outward from the property boundary for a distance equal to twenty-five percent (25%) of the distance across the tract, but not fewer than fifty (50) feet nor more than two hundred (200) feet.
 - (viii) The locations, sizes and descriptions of all existing utilities, including but not limited to sewer lines, lift stations, sewer and storm sewer manholes, water lines, water storage tanks, and wells within the property, and/or adjacent thereto. Existing overhead and underground electric utilities shall also be shown.
 - (ix) The location, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, railroads, easements, building setbacks or other public rights-of-way within the property, intersecting or contiguous with its boundaries or forming such

boundaries, as determined from existing deed and plat records. The existing right-of-way width of any boundary street to the property shall also be shown.

- (x) Location of city limit lines and/or outer border of the city's extraterritorial jurisdiction, as depicted on the city's most recent base map, if either traverses or is contiguous to the property boundary.
- (H) An erosion and sedimentation control plan, showing as follows:
- (i) Proposed fill or other structure elevating techniques, levees, channel modifications and detention facilities.
 - (ii) Existing and proposed topographic conditions with vertical intervals not greater than one (1) feet referenced to a United States Geological Survey or Coastal and Geodetic Survey benchmark or monument.
 - (iii) The location, size, and character of all temporary and permanent erosion and sediment controls with specifications detailing all on-site erosion control measures which will be established and maintained during all periods of development and construction.
 - (iv) Contractor staging areas, vehicle access areas, temporary and permanent spoils storage areas.
 - (v) A plan for restoration and for the mitigation of erosion in all areas disturbed during construction.
- (I) A site plan, showing all visible improvements to the land, including the following:
- (i) The location, dimensions, square footage, height, and intended use of existing and proposed buildings on the site.
 - (ii) Location, number and dimensions of existing and proposed parking spaces, distinguishing between standard, handicap and van handicap spaces, and calculation of applicable minimum requirements in accordance with this article.
 - (iii) The location, type and dimensions of proposed driveways, signs and traffic control devices.
 - (iv) Compliance with the city's transportation policies provided in the city's subdivision ordinance.
- (J) A grading and drainage plan, showing as follows:
- (i) A drainage area map delineating areas to be served by proposed drainage improvements.
 - (ii) Detailed design of all drainage facilities, including typical channel or paving section, storm sewers, detention ponds and other stormwater control facilities.

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- (iii) Accurate cross-sections, plan and profiles of every drainage improvement proposed in a public utility easement and/or public right-of-way.
 - (iv) Existing and proposed topographic conditions with vertical intervals not greater than one (1) feet referenced to a United States Geological Survey or Coastal and Geodetic Survey benchmark or monument.
 - (v) Attendant documents containing design computations and any additional information required to evaluate the proposed drainage improvements.
 - (vi) Compliance with the city's drainage policies provided in the city's subdivision ordinance.
- (K) A utility plan, showing as follows:
- (i) The layout, size and specific location of proposed water mains and other related structures and in accordance with all current city standards, specifications, and criteria for construction of water mains.
 - (ii) The location of proposed fire hydrants, valves, meters, pipe fittings and other appurtenances.
 - (iii) Design details showing the connection with the existing city water system.
 - (iv) The layout, size and specific location of the proposed wastewater lines, lift stations, and other related structures, and in accordance with all current city standards, specifications, and criteria for construction of wastewater systems.
 - (v) Plan and profile drawings for each line in public right-of-way or public utility easements, showing existing ground level elevation at centerline of pipe, pipe size and flow line elevation at all bends, drops, turns, station numbers at fifty (50) foot intervals.
 - (vi) Detailed design for lift stations, special wastewater appurtenances, if applicable.
 - (vii) Utility demand data, and other attendant documents, to evaluate the adequacy of proposed utility improvements, and the demand on existing city utilities.
 - (viii) Compliance with the city's utility policies provided in the city's subdivision ordinance.
- (L) A building plan, including floor, building, foundation, and roof plans, and elevations.
- (M) A landscape plan, showing as follows:

- (i) Dimensions, types of materials, size and spacing of proposed vegetative materials, planting details and irrigation appurtenances in relation to proposed structures or other significant improvements.
 - (ii) The following maintenance note: The developer and subsequent owners of the landscaped property, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of the subdivision regulations.
 - (iii) Compliance with the city's landscaping and screening requirements of this article. See section 9.03.072.
- (N) Construction details, showing (when applicable) showing as follows:
- (i) Structural retaining walls and/or detention outlet structures.
 - (ii) Storm sewer manhole and covers, typical channel sections, inlets, safety end treatments and headwalls.
 - (iii) Wastewater manholes and covers, cleanouts, grease traps, pipe bedding and backfill.
 - (iv) Water valves, water meters, fire hydrants, thrust blocks, backflow prevention and concrete encasement.
 - (v) Driveways, curb and gutter, sidewalks, curb ramps, pavement sections and pavement repair
 - (vi) Silt fence, rock berms, stabilized construction entrance, inlet protection.
 - (vii) Traffic controls when working in public right-of-way.
 - (viii) Applicable city standard details and specifications.
- (d) Procedure. Construction plans for the development or improvement of land in the city limits, not otherwise governed by the city's subdivision ordinance, shall be submitted to the city for approval prior to the issuance of a building permit.
- (1) Two (2) complete sets of construction plans shall be submitted to city staff for review by the city engineer at any time prior to the issuance of a building permit, along with the following:
- (A) Completed application forms and the payment of all applicable fees.
 - (B) A letter requesting any variances from the provisions of this article.

- (C) Any attendant documents needed to supplement the information provided on the construction plans.
- (2) City staff shall review all construction plan submittals for completeness at the time of application. If, in the judgment of city staff, the construction plan submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.
 - (3) The city engineer shall review the construction plans to insure compliance with this article, and other applicable city ordinances, codes, standards and specifications, and good engineering practices.
 - (4) Construction plans may be rejected at any time subsequent to submittal and prior to final approval for failure to meet the minimum informational requirements of this article.
 - (5) Applicable fees pursuant to city ordinance shall be paid, including, but not limited to, all professional fees, engineer, and attorney fees incurred by the city for or with respect to the review, processing and approval of the application for the approval of the building permit.
- (e) Approval. Within thirty (30) days of the date on which all required information has been accepted for review, the city engineer shall either approve or disapprove the construction plans. If the construction plans are disapproved, the city engineer shall notify the applicant, in writing, of disapproval and indicate the requirements for bringing the construction plans into compliance. If construction plans are approved, then the city engineer shall sign the cover sheet of the construction plans, returning one (1) signed copy to the applicant and retaining the other signed copy for city records.
- (1) Specific approvals required from other agencies shall be obtained by the owner.
 - (2) All improvements shown in the approved construction plans shall be constructed pursuant to and in compliance with the approved plans, except as otherwise specifically approved.
 - (3) It shall be the right of the applicant seeking construction plan approval, to appeal a decision of the city engineer to the commission and have a final decision rendered by the commission.
- (f) Revision. Where necessary, due to unforeseen circumstances, for corrections to be made to construction plans for which approval has already been obtained, the city engineer shall have the authority to approve such corrections when, in his/her opinion, such changes are warranted and also in conformance with city requirements. Approval of such changes agreed to between the developer and city engineer shall be noted by initialing and dating by both parties on the two (2) original signed copies of the construction plans.
- (g) Responsibility. Notwithstanding the approval of any construction plans [by][??] the city engineer or the commission, the developer and the engineer that prepares and submits such plans and specifications shall be and remain responsible for the adequacy of the design of all such improvements; and nothing in this article shall be deemed or

construed to relieve or waive the responsibility of the developer and his/her engineer for or with respect to any design, plans and specifications submitted.

- (h) Expiration. Unless a longer time shall be specifically established as a condition of approval, construction plan approval shall expire twelve (12) months following the date on which such approval became effective, unless prior to the expiration, a building permit is issued and construction is commenced and diligently pursued toward completion.
- (i) Extension. Construction plan approval may be extended if the developer submits a written request for extension and continuance of the plan as approved by the city prior to expiration. Approval of any such extension request shall be automatic one (1) time only for a period of twelve (12) months.

(Ordinance 12-17-01 (ord. 2), sec. 60, adopted 12/17/2001)

§ 9.03.072. Landscaping and screening requirements.

- (a) Purpose. The purpose of this section is, in conjunction with the other requirements of this article, to promote and support the orderly, safe, attractive and healthful development of land located within the community, and to promote the general welfare of the community by preserving and enhancing ecological, environmental and aesthetic qualities, through established requirements for the installation and maintenance of landscaping elements and other means of site improvements in developed properties. The following are additional factors considered in establishing the requirements of this section:
 - (1) Paved surfaces, automobiles, buildings and other improvements produce increases in air temperatures, a problem especially noticeable in this southern region, whereas plants have the opposite effect through transpiration and the creation of shade. Likewise, impervious surfaces created by development generate greater water runoff causing problems from contamination, erosion and flooding. Preserving and improving the natural environment and maintaining a working ecological balance are of increasing concern. The fact that the use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements is of benefit to the health, welfare and general well-being of the community and, therefore, it is proper that the use of such elements be required.
 - (2) The city experiences frequent droughts and periodic shortages of adequate water supply; therefore, it is the purpose of this section to encourage the use of drought resistant vegetation that does not consume large quantities of water.
- (b) Installation and plan. All landscape materials shall be installed according to American Association of Nurserymen (AAN) standards. An approved landscape plan shall be required for all new development in any zoning district, save and except for A, OS, R-1, R-1A, R-2, R-3 and M Districts.

- (c) Maintenance. The owner of the landscaped property shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of this section.
- (d) Planting criteria.
 - (1) Trees. Trees shall be a minimum of two (2) inches in caliper measured three (3) feet above finished grade immediately after planting.
 - (2) Shrubs and ground cover. Shrubs, vines and ground cover planted pursuant to this section shall be good, healthy nursery stock. Shrubs must be, at a minimum, a one (1) gallon container size.
 - (3) Lawn grass. It is recommended that grass areas be planted with drought resistant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in areas subject to erosion.
 - (4) Synthetic plants. Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this section.
 - (5) Architectural planters. The use of architectural planters may be permitted in fulfillment of landscape requirements.
 - (6) Other. Any approved decorative aggregate or pervious brick pavers shall qualify for landscaping credit if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.
- (e) Landscaping requirements. A minimum percentage of the total lot area shall be devoted to landscape development in accordance with the following schedule.

| Zoning or Use | Percentage |
|--|------------|
| (1) Multi-family, open space | 20% |
| (2) Residential | *Note |
| (3) Office | 15% |
| (4) General retail and commercial uses | 15% |
| (5) Industrial - light and heavy | 10% |
| (6) Agricultural | None |

*Note: Minimum landscape requirements for each lot on which a single-family, dwelling, or a manufactured home, is constructed or installed after the date of this article shall be a minimum of two (2) two-inch trees, six (6) two-gallon shrubs and lawn grass from the front property line to the front two (2) corners of the structure. Residential structures on reverse frontage lots shall also be required to screen the rear of the structure from the abutting highway, access road, or other public rights-of-way.

- (f) Exceptions. Exceptions to these provisions may be granted by the commission and/or council to require a lesser amount of landscaping if the aesthetic, buffering and environmental intent of this article is met, and the reduction of the landscape area results in the preservation of natural features having comparable value to the reduced landscape requirements.
- (g) Placement. Landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty percent (50%) of the required landscaped area and required plantings shall be installed between the front property lines and the building being constructed. Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the commission. Landscaping placed within public rights-of-way shall not be credited to the minimum landscape requirements by this section.
- (h) Credit. The building official and/or city engineer shall, with respect to the issuance of a building permit or approval of a construction or site development plan, give a credit against the requirements of this section for trees preserved on the site. Provided that, in order to reward the preservation of significant trees, a credit may be given for such preservation only if no more than fifty percent (50%) of the critical root zone is disturbed or distressed with impervious cover, and provided further that the remaining critical root zone must consist of at least one hundred (100) square feet.
- (i) Additional required plantings. For every six hundred (600) square feet of landscape area required by this section, two (2) trees and four (4) shrubs shall be planted. To reduce the thermal impact of unshaded parking lots, additional trees shall be planted, if necessary, so that no parking space is more than 50 feet away from the trunk of a tree, unless otherwise approved by the commission. This subsection (i) shall not apply to any property included in any of the following zoning categories: A, and R-1.
- (j) Screening. The following requirements shall be in addition to the foregoing landscaping and planting requirements.
 - (1) All off-street parking, loading spaces and docks, outside storage areas, satellite dishes larger than 18 inches in diameter, antennas, mechanical equipment, and the rear of structures on reverse frontage lots, must be screened from view from the street or public rights-of-way.
 - (2) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof.
 - (3) Privacy fences.
 - (A) All fences required by this subsection and along a common property boundary shall be six (6) feet in height.

- (B) Fences up to eight (8) feet in height, but not less than six (6) feet, shall be allowed for impeding access to hazardous facilities including, but not limited to, electrical substations, swimming pools and chemical or equipment storage yards, where the slope of a line drawn perpendicular to the fence line averages twenty percent (20%) or more on either side of the fence over a distance no less than fifteen (15) feet, or where the fence forms a continuous perimeter around a subdivision and the design of said perimeter fence is approved by the commission.
 - (C) Fences less than or equal to three (3) feet in height shall be allowed in front yards.
 - (D) No fence or other structure more than thirty percent (30%) solid or more than three (3) feet high shall be located within twenty-five (25) feet of the intersection of any rights-of-way.
 - (E) All fences shall be constructed to maintain structural integrity against natural forces such as wind, rain and temperature variations.
 - (F) The finished side of all fences built to comply with these regulations shall face away from the screened object.
- (4) Evergreen vegetative screens. Evergreen plant materials shall be shrubs, at least thirty (30) inches in height and at a minimum spacing of 48 inches at the time of installation. Shrubs may be used in combination with landscape trees to fulfill the requirements of this section.
 - (5) Landscape berms. Landscape berms may be used in combination with shrubs and trees to fulfill the screening requirements of this section if the berm is at least three (3) feet in height and has a maximum side slope of four (4) feet of horizontal run for every one (1) foot in vertical rise.
 - (6) Native vegetation. Existing vegetation demonstrating significant visual screening capabilities and as approved by the commission may fulfill the requirements of this section.

(Ordinance 12-17-01 (ord. 2), sec. 61, adopted 12/17/2001)

§ 9.03.073. Sign requirements.

- (a) All signs shall be designed, placed, located, erected, constructed and maintained in accordance with this section and all applicable city ordinances.
- (b) Purpose. The objectives of this section are to promote the health, safety, welfare, convenience, communication and the landscape quality of the public. The sections, provisions and regulations set forth in this article shall apply to the control, use, installation, regulation, licensing and permitting of signs within the city and its extraterritorial jurisdiction (ETJ). It is the intent of this article to provide comprehensive regulations applicable to signs placed, installed or maintained within the city and its ETJ; provided that this article shall not be construed, applied, interpreted nor enforced in a manner to violate the First Amendment rights of any person, and the building official shall seek the advice and recommendation of the city attorney prior to

taking any action to enforce any provision of this article with respect to any noncommercial sign or speech by any person. This section shall further be interpreted and applied to accomplish the following purposes:

- (1) Safety. A purpose of this section is to provide for the public safety by requiring that:
 - (A) No hazard is created due to collapse, wind, fire, collision, decay or abandonment;
 - (B) No obstruction is created to firefighting and police surveillance; and
 - (C) No traffic hazard is created by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read the traffic signs.
- (2) Communications. A purpose of this section is to promote the efficient transfer of information in sign message by providing that:
 - (A) Businesses and services may identify themselves;
 - (B) Customers and other persons may locate a business or service; and
 - (C) 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. A purpose of this article is to enhance the appearance and economic value of the landscape, by providing signs that:
 - (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 value; and
 - (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.
- (c) General provisions. All signs erected or maintained pursuant to the provisions of this article shall be erected and maintained in compliance with all applicable federal, state, and local laws and regulations, 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.
- (d) Definitions. As used in this section, the following terms shall have the meaning indicated below unless the context clearly indicates otherwise:

Erect. To build, construct, attach, hang, place, suspend, or affix.

Face or surface. The surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

Gross surface area of the sign. The entire area within a single continuous perimeter enclosing the extreme limits of each sign. A sign having two (2) surfaces shall be considered a single sign if both the surfaces are located back to back. In the event two (2) or more signs share a single structure, i.e., directory signs, or signs on V-shaped structures, each sign or panel shall be considered separately for square footage purposes, provided that the combined area of such signs cannot exceed the total square footage allowed on a single sign.

Height. The distance from common ground level to the highest point.

Illuminated sign. Any sign illuminated by electric lights.

Incombustible material. Any material which will not ignite at 1200 degrees F. or below, nor shall it continue to burn or glow at that temperature.

License. An official document issued by the city that gives permission to operate a sign installation business.

Logo. Design or insignia commonly used to identify a company or product.

Off-site. The sign refers to goods, products or services provided at a location other than that which the sign occupies.

On-site. The sign refers to goods, products, or services provided at a location which the sign occupies.

Permanent. Any sign intended to be used for six (6) months or longer.

Permit. An official document issued by the city that allows for sign installation.

Person. An individual, partnership, firm, company, association or corporation of any kind.

Portable sign. A sign easily moved from one location to another, including signs which are mounted on skids, trailers, wheels, legs or stakes.

Setback. The minimum distance from the property line to the nearest part of a building. No sign requiring a permit may encroach, project, or be constructed on or past this line.

Sign. A structure, display, light device, painting, drawing, message, plaque, poster, billboard or other thing that is designed, intended or used to advertise, inform, or attract the attention of persons not on that premises, excluding those lights and landscape features which display words or symbols as temporary holiday decorations.

Sign, abandoned. Any sign without a valid current permit, or one which is deserted, surrendered or forsaken, unused, given up or relinquished with intention of never resuming a right of interest therein.

Sign, advertising. Any sign which promotes or advertises commodities or services not offered on the premises where such signs are located.

Sign, agricultural. Any sign identifying the farm or ranch on which it is placed and advertises the produce, crops, animals, or poultry raised or quartered thereon.

Signs, apartment. Any sign identifying an apartment building or complex of apartments.

Sign, construction. Any temporary sign identifying the property owner, architect, contractor, engineer, landscape architect, decorator, or finances engaged in the design, construction or improvement of the premises on which the sign is located.

Sign, developmental. Any temporary sign pertaining to the development of land.

Sign, directional. Any temporary sign which exclusively communicates the location or route to a premises or occupancy.

Sign, identification. Any sign used to identify shopping centers, industrial and commercial parks, and retail districts. These signs are not intended to identify individual businesses or activities within the center or district.

Sign, institution. Any sign used to identify a school, church, hospital or similar public or quasi-public institution.

Sign, marquee. Any sign erected on a marquee or fixed awning.

Sign, model home. Any temporary sign used to advertise a particular structure represented by a model or show home.

Sign, monument. Any permanent low profile sign on a monument base.

Sign, political. A sign advertising a political candidate or party for elective office.

Sign, projection. Any sign which projects, either horizontally or vertically, from a building and which has one end attached to that building or other permanent structure.

Sign, real estate. A sign used to advertise the sale, or lease of a piece of real property.

Sign, residential subdivision. A sign used to identify a specific residential subdivision.

Sign, traffic. A sign used for traffic control purposes.

Sign, wall. Any sign attached to the face of a building or incorporated thereon, including windows and doors, to advertise businesses in that building.

- (e) On-site signs permitted. A freestanding or attached sign may be erected and maintained upon any commercial or industrial zoned property, unless otherwise prohibited or restricted herein; provided that not more than one (1) freestanding sign shall be erected or maintained upon any premises. Additionally, not more than two (2) attached signs may be attached to or suspended from any building facade, canopy or awning. Such signs shall pertain only to the identification of a building, business, product(s), or service(s) manufactured, sold or offered on the premises where the signs are located.

- (1) Freestanding signs. The maximum size of any freestanding sign shall not exceed 6' x 10' nor have a luminance greater than 200 footlamberts. A minimum setback of a least five (5) feet from any building line is required. No freestanding sign shall exceed thirty (30) feet in height. Any freestanding sign located in such a manner as to allow the passage of vehicular traffic beneath it shall have a minimum clearance of fourteen (14) feet. Any sign located in such a manner to allow the passage of pedestrian traffic beneath it shall have a minimum clearance of eight (8) feet. Any freestanding sign that does not meet the size, height and setback restrictions will require a variance from the city council.

- (2) Portable signs. Any portable sign lawfully in existence upon the effective date of this section shall be considered a nonconforming sign and will be allowed to continue for thirty (30) days, at the expiration of which time it must be removed. Any unauthorized portable sign in existence prior to the effective date of this section shall be removed immediately. Where existing portable signs are electric signs, no electric extension cords shall be run across any sidewalk, street, or public right-of-way. No portable sign shall be placed or maintained on any sidewalk, street, or other public right-of-way. No portable sign shall have a luminance greater than 200 footlamberts. All lawfully existing portable signs shall be anchored to withstand a minimum of thirty (30) mph winds.
- (3) Attached signs. The maximum size of any attached sign shall be forty (40) square feet. The height of any attached sign shall not exceed the height of the roofline of the structure to which the sign is attached. Architectural elements to which signage may be attached shall be limited to the building wall surfaces, canopy, fascia, or sign bands. No attached sign shall project over eighteen (18) inches from the face of any building to which affixed nor shall any sign have a luminance greater than 200 footlamberts. Where an attached sign is placed in such a manner as to project a distance greater than two (2) inches into a private driveway or other private area likely to be used by vehicular traffic or where such sign is placed in such a manner as to allow the passage of vehicular traffic beneath it, the sign shall have a minimum clearance of fourteen (14) feet. Where an attached sign is placed in such a manner as to allow the passage of pedestrian traffic beneath it, the sign shall have a minimum clearance of eight (8) feet.
- (4) Construction standards. All on-site signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area; and shall be constructed to receive dead loads as required in the building code of the city.
- (5) Marquee signs. Such sign faces shall not exceed seventy-five (75) percent of the width of such building or store frontage.
- (6) Balloons, floating devices, streamers or search lights. All balloons, floating devices, streamers or search lights shall be sufficiently anchored and shall meet all applicable regulations. The time limits applicable to any such devices shall be as outlined for temporary special events signs.
- (f) Sign license; fee. No person, firm or corporation shall install or maintain any sign, or contract to provide such service, until such person, firm or corporation has applied for a license to install, erect, and maintain signs, and until such license has been approved and issued. Such license fee shall be one hundred dollars (\$100.00) per year, payable on the first of January of each year. Excluded from these licensing requirements is a person, firm or corporation who installs or maintains or contracts to have any other person install or maintain, any sign on premises owned by that person, firm or corporation.
- (g) Permit fees. The fee for permits shall be based on the square footage of said sign in the following manner:

| Square Feet | Fee |
|--------------------------|----------------|
| Up to 40 square feet | \$25.00 |
| 41 sq. ft. to 60 sq. ft. | \$50.00 |
| 61 sq. ft. and larger | \$1.00/sq. ft. |

If any work is started or proceeded without a permit first being obtained, the above specified permit fee shall be doubled and paid for the required permit.

- (h) Sign erection bonding. No license for the installation, erection and maintenance of signs shall be issued to any person, firm or corporation until such person, firm or corporation has filed with the building official a surety bond in the sum of five thousand dollars (\$5,000.00). Such bond shall be for the installation and erection of signs, shall be payable to the city and shall provide for the indemnification of the city for any and all damages or liability which may accrue against it for a period of one (1) year after installation, erection, demolition, repair, removal or defects in or collapse of any sign.
- (i) Engineer certification. All applications for a sign permit shall require scale drawings showing a site plan location and design of the sign. Projection, wall and temporary signs not over six (6) square feet in area, constructed of metal or other noncombustible material, attached securely to a building or structure and not projecting more than eighteen (18) inches beyond the building wall, structure building line or property line, shall not require civil engineer certification as to its soundness. For all other signs, a design and street location plan, containing the necessary information, shall be submitted to the building official to determine that such sign complies with all the applicable codes and regulations. Wind pressure and dead loads shall be shown where deemed appropriate, and the building official may require structural drawings designed and sealed by a civil engineer registered by the State of Texas when it cannot otherwise be determined that the sign will be structurally sound.
- (j) Signs exempt from permitting procedures. Permits and required setbacks shall not be required for the following signs, provided, however, that such signs shall otherwise comply with all other applicable sections of this article.
 - (1) Temporary political signs.
 - (2) Temporary special event signs not exceeding sixteen (16) square feet in area and limited to a maximum time period of no more than fourteen (14) consecutive days, with a limit of three (3) events each calendar year, or a maximum time period of no more than forty-five (45) consecutive days with a limit of one (1) event each calendar year. For thirty (30) days following an event, no new temporary special event sign shall be allowed. The location of temporary special event signs must be approved by the building official for safety and setback purposes and, if the adjacent property owners make objections to the sign, the adjacent property owners may appeal any such application to the city council. All such signs must be removed within ten (10) days after the maximum time period allowed.

- (3) Occupational signs not exceeding two (2) square feet in area and denoting only the name and profession, or occupation, in a commercial or public institutional building.
 - (4) On-site traffic control signs not exceeding eight (8) square feet and used primarily to denote entrances and exits, shall not contain advertising or be used for such purpose, and shall not exceed three (3) feet in height.
 - (5) Residential real estate signs advertising the sale or lease of an individual residential structure and not exceeding eight (8) square feet.
 - (6) Business/industry real estate signs advertising the sale or lease of business/industrial property and not exceeding sixteen (16) square feet.
 - (7) Temporary window signs and banners not exceeding the surface area of the window within which it is placed.
- (k) Signs not regulated. The following types of signs shall be exempt from the permitting provisions of this article. However, regulations regarding sign location in a public right-of-way or public access easement shall apply. It is further specifically provided that the building official may, based upon the size, materials used in construction and other relevant factors, require the owner of any sign to show evidence of structural soundness and compliance with the safety requirements of this article.
- (1) Governmental signs. Signs erected or maintained pursuant to the discharge of any governmental function; required by law, ordinance, or governmental regulation; or located on property owned, leased or under control of the federal or state government.
 - (2) Railway signs. Signs within or on railway property and placed or maintained in reference to the operation of such railway.
 - (3) Utility signs. Signs marking utility or underground communication or transmission lines.
 - (4) Vehicle signs. Signs displayed or used upon vehicles, trailers or aircraft, unless such vehicle, trailer, or aircraft on which such sign is displayed is permanently stationed for a period of seventy-two (72) continuous hours or more, or regularly used at a fixed location to serve the same or similar purpose of a permanent or portable sign not affixed to a vehicle, trailer or aircraft.
 - (5) Signs not visible from street. Signs where no part of such sign is visible from any public street.
 - (6) Holiday signs. Temporary signs containing only holiday messages and no commercial advertising.
 - (7) Signs on persons. Hand-held signs or signs, symbols or displays on persons or animals.
 - (8) Unused signs. Signs being manufactured or transported, and/or properly and safely stored, and not being used, in any manner or form, for purposes of advertising.

- (9) Plaques. Commemorative plaques of recognized historical societies and organizations.
 - (10) Private traffic control. On-site signs which direct the movement of traffic on private property or warn of obstacles, overhead clearances or control parking. The sign must be less than ten (10) feet in width, less than six (6) feet in height, and be placed where it will not interfere with the safe movement of vehicles or pedestrians.
 - (11) Mailboxes and newspaper racks. Signs located on mailboxes, newspaper vending machines and curbside residential newspaper holders which identify the owner and address of the premises or the name of the newspaper sold or subscribed to; provided that such devices are not placed so as to interfere with the safe movement of pedestrians or vehicular traffic.
 - (12) Signs on outdoor machines, devices and equipment. Signs located on outdoor machines, devices, or equipment which display the trademark, trade name, manufacturer, cost of operating or service instructions or similar information, but do not advertise the business where located. This exemption includes, but is not limited to, signs on coin-operated vending machines, fuel dispensing pumps, telephone facilities, automatic teller machines, automatic vacuum cleaners, amusement rides and similar machines, devices or equipment.
 - (13) Athletic fields. Signs located on the field side of scoreboards and fences of athletic fields.
- (l) Permit required; application and issuance.
- (1) Permit required. It shall be unlawful for any person to erect, maintain, or relocate any sign within the city without first obtaining a sign permit from the building official unless such sign is exempted by this article.
 - (2) Existing signs. The owner of a non-exempt sign that exists upon the effective date of this section and for which sign a current permit does not exist, shall make application for a sign permit within thirty (30) days of the effective date of this section. It shall be unlawful for the owner of any such sign to fail to apply for a permit within the thirty (30) days and such failure shall further make such sign an illegal sign.
 - (3) Permit application. Application for permits shall contain or have attached thereto the following information:
 - (A) Name, address, and telephone number of the applicant.
 - (B) Location of the building, structure, or lot on which the sign is to be attached or erected.
 - (C) Two (2) sets of plan shall be submitted showing the sign location in relation to nearby buildings or structures, signs, property lines, driveways, public streets, fences, and sidewalks.
 - (D) Two (2) blueprints or ink drawings of the plans and specification showing method of construction, attachment to the building or ground, size, type,

height, construction materials, and such other materials, and such other information as the building official may require. The building official may require plans to be prepared by a registered professional engineer who is registered by the State of Texas or an architect licensed by the State of Texas.

- (E) Copy of stress sheets and calculations showing the structure as designed for dead load and wind pressure in any direction in the amount required by this article, and all other laws and codes of the city.
 - (F) Name of the person, firm, corporation, or association erecting the structure.
 - (G) Any electrical permit required and issued for said sign.
 - (H) Zoning classification carried by the property.
 - (I) Estimated value of the sign.
 - (J) Such other information as the building official shall require to show full compliance with this article and all other laws and codes of the city.
- (4) Permit issuance. It shall be the duty of the building official, upon the filing of an application for a sign permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect a sign. If it appears that the proposed structure is in compliance with all the requirements of this section, the building code, and all other laws and ordinances of the city, the building official shall then issue the sign permit. If the work authorized under a sign permit has not been completed within sixty (60) days after issuance, the said permit shall become null and void.
- (m) Illuminated signs. The electrical inspector may only approve an application for an illuminated sign if the sign is to be installed on property zoned commercial or higher. The application for a permit for erection of a sign in which electrical wiring and connections are to be used shall be submitted to the electrical inspector. The electrical inspector shall examine the plans and specifications respecting all wiring and connections to determine if the same complies with the electrical code of the city. In addition, all illuminated signs shall bear the Underwriters' Laboratory label or be built to comply with the Underwriters' requirements. The electrical inspector shall approve said permit if the plans and specifications therefor comply with the requirements of this article, and shall disapprove the application if noncompliance is found. Approval by the electrical inspector must be obtained prior to the approval and issuance of any sign permit by the building official.
- (n) Maintenance and removal.
- (1) Maintenance required. All signs shall be maintained in good and safe structural condition, shall be painted on all exterior parts, unless coated or made of rust-resistant material, and shall be maintained in good condition and appearance. Any owner failing to maintain, repair, or remove any such sign after due notice has been given shall upon conviction be guilty of a misdemeanor.
 - (2) Inspection of signs. The building official shall be notified by the permittee when erection of the sign is complete, and the official shall make an inspection to

determine if the sign conforms to the permit. The building official shall inspect annually, or at such other times as he deems necessary, each sign regulated by this section for the purpose of ascertaining whether the same is secure or insecure, whether it still serves a useful purpose and whether it is in need of removal or repair.

- (3) Removal of unsafe and unlawful signs. If the building official shall find that any sign regulated herein is unsafe or insecure, or is a menace to the public, or is abandoned or is maintained in a dilapidated condition, or has been constructed or erected or is being maintained in violation of this section, or is not permitted as required herein, he shall take action as follows:
- (A) Except as provided in the following subsections (B) and (C), the building official shall give the sign or property owner written notice to repair, remove or obtain a permit for such sign as applicable within ten (10) days after such notice. If the sign or property owner fails to remove, repair, or obtain a permit for such sign so as to comply with all applicable standards and regulations, the building official shall cause the sign to be either removed or repaired and such cost shall be charged to and paid by the property owner. If such demolition or repair expenses are not paid by the property owner within thirty (30) days of such billing, then such expenses shall constitute a valid lien against the property. Such notice shall also provide the sign or property owner an opportunity to bring the sign into compliance or to request a hearing before the city council to determine whether the sign should be repaired or removed. Such appeal must be filed in writing with the city secretary within ten (10) days of the notice. After consideration of all facts, the city council shall rule upon the appeal.
- (B) The building official may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.
- (C) Any sign located in public right-of-way may be immediately removed by the building official without notice to the owner.
- (o) Sign standards; signs to comply with applicable law. All signs erected or maintained within the city shall be erected and maintained in compliance with all applicable state laws and with this section and this article, the city's building code and the electrical code. In the event of conflict between this section and other laws, codes or ordinances, the most restrictive standard shall apply.
- (p) Signs allowed without permit.
- (1) Sale or lease signs. Any realtor or property owner may erect a sign for the purpose of advertising the sale or lease of the real property on which such sign is located, subject to the following provisions:
- (A) Signs advertising the sale or lease of nonbusiness property shall not exceed eight (8) square feet in area not five (5) feet in height from ground level.
- (B) Signs advertising the sale or lease of a business property shall not exceed sixteen (16) square feet in area nor eight (8) feet from ground level.

- (2) Garage or yard sale signs. Any person may erect a sign on his own property, or property of another with the owner's permission, for the purpose of advertising a garage or yard sale. Name, date and address must be shown on the sign, however such signs shall be removed within twenty-four (24) hours of the sale.
- (3) Handbills and circulars. Handbills and circulars are prohibited except that hand-delivered to individual persons is allowed.
- (4) Political signs. Political signs may be erected on any private property; provided, that such signs comply with other applicable requirements of this section and provided further, that the owner or occupant of the property on which such sign is displayed:
 - (A) Shall not erect or cause to be erected special purpose political signs until forty-five (45) days prior to any primary or general election; and
 - (B) Shall remove the signs within ten (10) days after the general or runoff elections to which a sign pertains or after the termination of a candidacy, whichever occurs first.
- (5) Temporary construction signs allowed. 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 may be erected on such site of the proposed business. However, only one (1) construction sign and one (1) future location sign will be permitted on such location. No such sign shall exceed thirty-two (32) square feet in area nor extend higher than fifteen (15) feet; provided, that such signs must be located on the premises where construction, or business location being advertised, is or will be occurring. Said signs shall be removed upon issuance of an occupancy permit.
- (6) Homebuilders and subdivision sign allowed. Except as and to the extent provided and limited in another ordinance of the city applicable to homebuilder and subdivision signs, freestanding signs for the purpose of identifying the location of or direction to subdivisions or major homebuilders sites are allowed. Such signs shall be on-site and shall not exceed sixty (60) square feet in area nor extend higher than fifteen (15) feet in height. A homebuilder with ten (10) lots or more qualified as a major homebuilder. The signs permitted for each subdivision or major homebuilder site shall be removed upon completion of the project. No such sign shall be located closer than one hundred (100) feet to a residential dwelling not within the subdivision.
- (q) Off-site signs. Only freestanding signs may be allowed as an off-site sign. Such off-site signs shall be erected and maintained only upon commercial or industrial zoned properties, unless otherwise prohibited or restricted. Before a permit shall be issued, the city must have a written statement in hand from the owner of the property where such freestanding sign is to be located giving permission for the erection and maintenance of a sign and holding the city harmless from any damages which might be caused by the sign. Freestanding signs shall be subject to the following regulations:
 - (1) No freestanding sign is permitted in any public right-of-way.

- (2) The maximum size of any freestanding sign shall not exceed 6' x 10' nor have a luminance greater than 200 footlamberts. No freestanding sign shall exceed thirty (30) feet in height. Any freestanding sign located in such a manner to, or that is likely to, allow the passage of vehicular traffic beneath shall have a minimum distance of fourteen (14) feet. Any sign located in a manner to allow the passage of pedestrian traffic beneath it shall have a minimum clearance of eight feet (8').
 - (3) The minimum distance between off-site signs shall be two hundred fifty feet (250').
 - (4) No freestanding, off-site sign shall be located within six hundred (600) feet of the right-of-way of Highway 95, except as specifically provided otherwise by state law.
 - (5) The minimum distance between off-site signs located on the same side street shall be three hundred feet (300').
 - (6) Billboards may be located within six hundred feet of the right-of-way of Highway 95 upon full compliance with this article; provided that no billboard may be constructed, erected, installed, or located within 3,000 feet of any other billboard. Billboards are prohibited in all other areas.
- (r) Nonconforming signs prohibited. Nonconforming signs erected or installed after the date of this ordinance are prohibited and shall be removed. Signs substantially similar to, or imitating, traffic or emergency signs are prohibited at any location at which they may be seen from the travel lanes of any public roadway.
- (s) Signs in right-of-way prohibited. 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 vehicular signs as long as such comply with other provisions of this section; nor to prohibit the carrying or display of signs by a person or persons as long as such sign is not connected or affixed to the real property comprising the public right-of-way, its fixtures and appurtenances.
- (t) Certain signs prohibited on public property. No person shall attach any sign, paper, or other material or paint, stencil, or write any name, number or otherwise mark on any sidewalk, curb, gutter, street, tree, or utility pole located on public property or within the public right-of-way, public building, public fence or public structure. This section shall not prohibit the positing of governmental signs or the painting or attachment of street address numbers to curbs.
- (u) Nonconforming signs. It is the declared purpose of this section that, in time, all privately owned signs shall either conform to the provisions of this section or be removed. By the passage of this ordinance and its amendments, no presently illegal sign shall be deemed to have been legalized unless such sign complies with all current standards under the terms of this article and all other ordinances of the city.
- (1) Any sign which does not conform to all provisions of this article but which existed on the effective date of this section and was lawfully constructed or installed shall be considered as a nonconforming sign. All nonconforming signs shall be permitted in the same manner as any other legally existing sign or

proposed sign; provided that no sign that was constructed or installed in violation of any state or local law, or that was originally constructed or installed without a permit that was then required at such time, shall be or qualify as a nonconforming sign.

- (2) Whenever any nonconforming sign no longer advertises a bona fide business or a business which has moved away or closed, a product sold, or service rendered, such sign shall be removed within sixty (60) days. If the nonconforming sign is a wall sign, the wall sign shall be removed or painted over with a color that resembles or matches the rest of the wall of the building. If the owner of, or person responsible for the sign, or if the tenant closing a business, fails to remove the abandoned sign or paint over the wall sign, the owner of the premises shall be held responsible and the work shall be done within thirty (30) days following written notice to do so by the building official.
- (3) No nonconforming sign may be enlarged or altered in a way which would increase its nonconformity.
- (4) Should any nonconforming sign be damaged by any means to an extent of more than fifty (50) percent of its replacement cost at time of damage, it shall not be reconstructed except in conformity with the provisions of this article.
- (v) Variances. The city council shall be empowered to vary the provisions of this section if it appears that the provisions would work in manifest injustice, considering such factors as the sign location and other pertinent factors. Such decision of the council should not however conflict with the spirit of this article, which is one of safety, provision of adequate light, open space and air, conservation of land and building values and to encourage the most appropriate use of land. All variances to these sign regulations will require a conditional use permit and a two-thirds vote of the city council to approve the variance.

(Ordinance 12-17-01 (ord. 2), sec. 62, adopted 12/17/2001)

§ 9.03.074. Conditional use permits.

- (a) Purpose. The city council may by ordinance, adopted by an[??] four (4) affirmative votes after receiving the recommendation of the commission grant a conditional use permit in compliance with this section for the conditional uses as listed in subsection (b) below. The city council may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood.
- (b) Authorized conditional uses. The following listed conditional uses and those indicated in a specific zoning district as a permitted use with a conditional use permit, and none other, may be authorized subject to the terms of this subsection and compliance with all conditional terms, regulations and requirements established by the city council.
 - (1) Airport, landing field, landing strip or heliport for aircraft; municipal service facilities and buildings.

- (2) Commercial, recreational, carnival or amusement development for temporary or seasonal periods.
- (3) Hospital, clinic or institution, provided that any hospital or institution permitted in any residential district shall be located on a site of not less than five (5) acres, shall not occupy more than ten percent (10%) of the total lot area and shall be set back from all property lines at least two (2) feet for each foot of building height.
- (4) Private operated community building or recreation field.
- (5) Radio or television broadcasting tower or station.
- (6) Cemeteries.
- (7) Schools - public and denominational.
- (8) Gasoline sales.
- (9) Alcoholic beverages—on-premises, alcoholic beverages—mixed drink and beer and wine; alcoholic beverages for those specific uses and in the specific zoning districts as provided by this article, including a bar, night club, tavern, and private club.
- (10) Sexually oriented business.
- (11) Including other uses as identified in the specific district or definition of the use.
- (12) Manufactured homes: In the following areas for lots zoned R-1:

Front Street: Both sides of Front Street from the north end to Josephine Street.

- (c) Procedure. Before authorization of any of the above conditional uses, public notice shall be given and public hearings shall be held as provided in chapter 211, Texas Local Government Code; provided that a conditional use permit for a period not to exceed seven (7) calendar days may be given for a use set forth in subsection (b)(3) or (b)(4)[??] above after a public hearing is held by the city council after having received a report and recommendation from the commission concerning the effect of the proposed use on the adjacent and neighboring properties and neighborhoods.
 - (1) Permit required. No conditional use shall be established, operated, or maintained except as authorized by a conditional use permit issued in accordance with the requirements of this section.
 - (2) Conditional use permit issued by city council. A special use permit may be issued only for the special uses specified in this section, and only for the district where it is authorized.
 - (3) The city council shall determine whether the proposed special use complies with each of the general criteria in subsection (d) of this section and with each of the criteria for the district applicable to the proposed use and shall make separate findings thereon or adopt the findings made by the commission.

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- (4) The city council may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards, or effective time periods designed to assure compliance with the criteria.
 - (5) Application. An application for a special use permit shall be made in writing in a form prescribed by the city secretary and shall be accompanied by such information as may be requested (including a site plan, if required) in order to properly review the proposed use. Such information may include, but is not limited to, site and building plans, drawings and elevations, and operational data.
- (d) General criteria applicable to all special uses. A proposed special use permit must comply with all the following criteria:
- (1) The appearance, size, density and operating characteristics of the proposed special use are compatible with the surrounding neighborhood and uses;
 - (2) The proposed use will not have an adverse effect on the value of surrounding properties nor impede their proper development;
 - (3) The proposed use will not create a nuisance factor nor otherwise interfere with a neighbor's enjoyment of his property or operation of his business;
 - (4) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create nor add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and
 - (5) The proposed use complies with all other applicable ordinances and regulations.

(Ordinance 12-17-01 (ord. 2), sec. 63, adopted 12/17/2001; Ordinance 12-21-20 adopted 12/21/2020)

§ 9.03.075. Nonconforming uses.

- (a) General policy. The general public, the city council and the commission are directed to take note that nonconformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, whenever and wherever possible, except:
 - (1) When necessary to preserve property rights established prior to the date these regulations become effective as to the property in question; and
 - (2) When necessary to promote the general welfare and to protect the character of the surrounding property.
- (b) Nonconforming structures. Where a lawful structure exists on the effective date of the adoption or amendment of the zoning ordinance, that could not be built under the terms of the zoning ordinance or amendment thereto by reason of restrictions on permitted use, area, lot coverage, height, years, its locations on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure may be enlarged or altered in a way which increases its structural nonconformity, but any structure or portion thereof may be altered to decrease its structural nonconformity.
 - (2) Should such nonconforming structure or nonconforming portions of a structure be damaged by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with this article.
 - (3) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
- (c) Nonconforming uses. A nonconforming use may be continued as long as it remains otherwise lawful, subject to the following provisions:
- (1) No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed or reconstructed.
 - (2) The use of the structure shall only be changed to a use permitted in the district in which it is located.
 - (3) A nonconforming use that has been discontinued may be resumed only if there has been no other use of the premises or structure since the nonconforming use was discontinued, and such use was not discontinued for a period of ninety (90) days or more.
 - (4) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to any land outside such building.
 - (5) Removal or destruction of a structure containing a nonconforming use shall eliminate the nonconforming use status. Destruction for the purpose of this subsection is defined as damage equal to more than fifty (50) percent of the replacement cost of the structure.
 - (6) A nonconforming use shall terminate upon any sale or conveyance of the property.
 - (7) A nonconforming use shall terminate upon any sale or conveyance of the property, except as follows:
 - (A) A manufactured home that is an existing nonconforming use at the time of the sale or conveyance of a property zoned as Residential District R-1 may remain on the property provided that the manufactured home is not moved, replaced, reconstructed, or enlarged and is in compliance with all ordinances, codes, and regulations of the city and the State of Texas, as amended from time to time, based upon an inspection of the building official prior to sale of the property, and remains in compliance with said ordinances, codes, and regulations.

- (d) Repairs and maintenance. On any nonconforming structure, or nonconforming portion of a structure, containing a nonconforming use, repairs and maintenance shall be performed to maintain the structure in compliance with the electrical, plumbing and building codes; provided that such repairs and maintenance shall be subject to the following conditions and limitations:
- (1) No work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-load-bearing walls, fixtures, wiring or plumbing, to an extent exceeding twenty-five (25) percent of the current replacement cost of such structure or nonconforming portion of such structure.
 - (2) If fifty (50) percent or more of the nonconforming structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

(Ordinance 12-17-01 (ord. 2), sec. 64, adopted 12/17/2001; Ordinance 012306 adopted 1/23/2006)

§ 9.03.076. Sexually oriented businesses.

- (a) Purpose and intent. It is the purpose of this section of the zoning ordinance to regulate sexually oriented businesses to promote the public health, safety, morals, and general welfare of the citizens of to city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this section have neither the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene materials.
- (b) 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.

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically operated still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore or adult video store means a “commercial establishment” which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, compact disc visual discs,

digital visual discs, computer pictures, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or

- (2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.
- (3) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and will be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as either:
 - (A) Two percent (2%) or more of its gross revenue is derived from the sale or rental of the specified materials which depict or describe specified sexual activities or specified anatomical areas; or
 - (B) Two percent (2%) or more of its inventory consists of the specified materials which depict or describe specified sexual activities or specified anatomical areas.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of total nudity or semi-nudity; or
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, video cassettes, compact visual discs, digital visual discs, computer pictures, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel means a hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, compact visual discs, digital visual discs, computer pictures, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; including those that have a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours or based on an hourly rate; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours or based on an hourly rate.

Adult motion picture theater means commercial establishments where, for any form of consideration, films, motion pictures, video cassettes, compact visual discs, digital visual discs, computer pictures, slides, or similar photographic reproductions are regularly

shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity and/or semi-nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a body rub, bathing of the body, or striptease for another person for the sexual arousal.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment means and includes any of the following;

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to 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.

Permittee means a person in whose name a conditional use permit to operate a sexually oriented business has been issued and the person who owns the building and/or land on which the business is located, as well as the individual listed as an applicant on the application for a permit.

Nude model studio means 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.

Nudity or a state of nudity means the appearance of a human bare buttock, anus, male genitals, female genitals, or areola of the breast.

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

Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region, and/or areola of the breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers any of the following for 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 means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

Specified anatomical areas means the male genitals in a state of sexual arousal and/or the vulva or more internal portion of the female genitals.

Specified sexual activities means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or stimulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory function as part of or in connection with any of the activities set forth in subsections (1) through (3) above.

Substantial enlargement of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five (25%) percent, as the floor area existed on the effective date of this section, or under a certificate of occupancy therefor.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

- (1) The sale, lease or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, 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.

(c) Classification. Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;

- (6) Adult theaters;
 - (7) Escort agencies;
 - (8) Nude model studios; and
 - (9) Sexual encounter centers.
- (d) Location. This section allows the opportunity for consideration of conditional use permits to be issued for sexually oriented businesses in the Industrial (herein "I") zoning districts only.
- (1) The following uses may be permitted within the city by conditional use permit only in the I zoning district.
 - (A) Adult arcades;
 - (B) Adult bookstores or adult video stores;
 - (C) Adult cabarets;
 - (D) Adult motels;
 - (E) Adult motion picture theaters;
 - (F) Adult theaters;
 - (G) Escort agencies;
 - (H) Nude model studios; and
 - (I) Sexual encounter centers.
 - (2) No use listed in subsection (d)(1) above shall be established within one thousand (1,000) feet of any of the following uses in existence prior to the beginning of such business:
 - (A) A church, chapel, or other regular place of religious worship;
 - (B) A public or private day-care, elementary, secondary school or institute of higher learning;
 - (C) A boundary of any residentially zoned district;
 - (D) A public park, library, or playground;
 - (E) The property line of a lot used for residential purposes; or
 - (F) Within one thousand (1,000) feet of another sexually oriented business.
 - (3) For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of[??] described in subsection (d)(2) above; or to the nearest boundary of any residentially zoned district; or from the closest exterior wall of the structure in

which a sexually oriented business is proposed to be located to the nearest exterior wall of any other sexually oriented business.

- (4) For the purposes of this section, if sexually oriented businesses cannot be located within a minimum of 3% of the existing zoning districts within the city limits, including all nonconforming use sexually oriented businesses, due to limitations as set forth in this section, the city will upon written request from an applicant review the current zoning districts and shall allow zoning alterations as necessary so that a minimum of 3% of the city-wide zoning, cumulatively within the city limits, can be occupied by a conditional use permitted sexually oriented business, including all nonconforming use sexually oriented businesses.
- (e) Sexually explicit films and videos.
- (1) 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 of less than one hundred fifty (150) square feet of floor space, a film, video cassette, compact visual disc, digital visual disc, computer picture, slide, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - (A) The application for a conditional use permit for a sexually oriented business 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 thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus one (1) foot. 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 is correct and has not been altered since it was prepared.
 - (B) The application shall be sworn to be true and correct by the applicant.
 - (C) No alteration in the configuration or location of a manager's station may be made without the prior approval of an amendment to the conditional use permit.
 - (D) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - (E) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the

premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

- (F) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in the above subsection (E) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (A) of this subsection.
 - (G) No viewing room may be occupied by more than one person at any time.
 - (H) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) footcandle as measured at the floor level.
 - (I) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (2) A person having a duty under subsections (A) through (I) of subsection (1) above commits a misdemeanor if he or she knowingly fails to fulfill that duty.
- (f) Exemptions. It is a defense to prosecution under this section that a person appearing in a state of nudity did so in a modeling class operated:
- (1) By a proprietary school, licensed by the State of Texas; a college, junior college, or university supported entirely or partly by taxation;
 - (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - (3) In a structure;
 - (A) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - (B) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
 - (C) Where no more than one nude model is on the premises at any one time.
- (g) Permits. All sexually oriented businesses located within the city limits must have a conditional use permit or qualify as a nonconforming use and have a permit to operate as provided herein. Each person having ownership interest, control or owning the

property upon which the sexually oriented business is to be located must have filled out an application and his or her name must appear on the permit.

- (1) Permits required. A commercial establishment that is a sexually oriented business as herein defined, shall at all times of operation within the city limits have a valid permit.
 - (A) A person commits an offense if that person conducts business as a sexually oriented business within the city unless a valid conditional use permit has been issued by the city for the conduct of such business.
 - (B) A person commits an offense if that person conducts business as a sexually oriented business within the city limits unless the person has a valid permit which is posted at or near the principal public entrance to the business in such a manner that it will be conspicuous to patrons who enter the premises, or behind the bar in a conspicuous manner.
 - (C) Every permittee shall have and maintain exclusive occupancy and control of the entire permitted premises in every phase of the operation of the sexually oriented business on the permitted premises. A permittee commits an offense if the permittee attempts to avoid such responsibility by creating any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee.
- (2) Issuance or denial of any permit. A permit, renewal or transfer permit shall be issued unless one (1) or more of the following conditions exists:
 - (A) The applicant has located the sexually oriented business in violation of this section. Unless the business is a nonconforming use as defined herein.
 - (B) The applicant(s) failed to supply all of the information required on the application.
 - (C) The applicant, or any one applicant, gave fraudulent or untruthful information on the application. This does not apply to clerical errors.
 - (D) The applicant, or any one applicant, has been convicted of a felony for which not less than ten (10) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, or a misdemeanor for which less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever date is the later date, of a crime in any state involving:
 - (i) Public lewdness, indecent exposure, or indecency with a child as described in the Texas Penal Code;
 - (ii) Prohibited sexual conduct, enticing a child, harboring a runaway child, or sale or purchase of a child as described in the Texas Penal Code;
 - (iii) Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution, or

- display of harmful material to a minor, sexual performance by a child, employment harmful to children, or possession or promotion of child pornography as defined in the Texas Penal Code;
- (iv) Facilitation, attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or
 - (v) Any similar offense to those described above under the criminal or penal code of another state.
- (E) Any applicant, or any one applicant, refuses provide a complete and current NCIC and TCIC criminal history of the applicant obtained by the applicant from the state department of public safety. The criminal history must be completed within 15 days of the date the application is submitted to the building official.
- (F) Permit fees are not paid in full.
- (3) Application requirements. Initial permit requests for a conditional use permit require each owner, having 10% or more interest in the sexually oriented business, to submit a complete application and to update the application as changes in ownership occur (herein the “applicant” or “permittee”). The information required in this subsection must be provided with each application and, as changes occur, updated information within ten (10) days of any change in the information required in the application.
- (A) The following information must be provided on the application form:
- (i) The name, street address (and mailing address if different) of the applicant and each and every owner with greater than 10% ownership interest;
 - (ii) Two copies each of recent photographs of the applicant showing full face and each side face profile;
 - (iii) A complete set of fingerprints on forms from the police department;
 - (iv) A complete and current NCIC and TCIC criminal history of the applicant obtained by applicant from the state department of public safety. The criminal history must be completed within 15 days of the date the application is submitted to the building official;
 - (v) The applicant’s driver’s license number, social security number, and, if applicable, his/her state or federally issued tax identification number;
 - (vi) The name under which the establishment is to be operated and a general description of the services to be provided;
 - (vii) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state (a) the sexually oriented business’s assumed name and (b) submit the required registration documents;

- (viii) Whether the applicant has ever been convicted, or is awaiting trial on pending charges, of a crime specified in subsection (g)(2)(D) of this section and, if so, the nature of the offense(s) and the date, place, and jurisdiction of each offense;
 - (ix) Whether the applicant has had a previous license or conditional use permit under this section or other similarly sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the license or conditional use permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a sexually oriented business ordinance whose license or conditional use permit has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the license or conditional use permit was denied, suspended or revoked, as well as the date of denial, suspension or revocation;
 - (x) Whether the applicant holds any other license or conditional use permit under this section or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;
 - (xi) The address, and legal description of the tract of land on which the establishment is to be located;
 - (xii) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the license or conditional use permit is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the conditional use permit is sought; and
 - (xiii) If the establishment is not in operation, the expected startup date (which must be expressed in number of days from the date of issuance of the conditional use permit). If the expected startup date is to be more than ten days following the date of issuance of the conditional use permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the construction, repair or remodeling work.
- (B) All applications for a conditional use permit must include the following:
- (i) If the establishment is a State of Texas corporation, a certified copy of the articles of incorporation, together with all amendments thereto.
 - (ii) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto.

- (iii) If the establishment is a limited partnership formed under the laws of the State of Texas, a certified copy of the certificate of limited partnership, together with all amendments thereto.
 - (iv) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto.
 - (v) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed along with the current address(es) and telephone number(s) of the owner(s).
 - (vi) If the person(s) identified as the fee owner(s) of the tract of land are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the purpose of the operation of the establishment together with the correct address and telephone number of each person with an ownership interest in the property.
 - (vii) If the property is owned by other than a natural person, the complete name, address and telephone [number][??] of each person with an interest in the entity must be included in the application.
 - (viii) A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines of any established use listed in subsection (d)(2) of this section within 1,000 feet of the property to be certified. For purposes of this section, a use is considered existing or established if it is in existence at the time an application is submitted.
 - (ix) The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale no smaller than 1/4 inch equals one foot and with marked dimensions of the placement of the building on the tract of land, and the interior of the premises to an accuracy of plus or minus six inches. All locational requirements must be approved by the building official within 60 days from the time the application is filed.
 - (x) Any of items (i) through (ix) above will not be required for a renewal application if they were previously presented and the applicant states that the documents previously furnished to the building official with the original application or previous renewals thereof remain correct and current.
- (C) Every application for a conditional use permit must contain a statement made under oath that:

- (i) The applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therewith is true and correct; and
 - (ii) The applicant has read the provisions of this section.
- (D) The applicant for a sexually oriented business conditional use permit must be qualified according to the provisions of this section.
- (E) If the applicant who wishes to operate a sexually oriented business is an individual, that individual must sign the application for a conditional use permit as applicant. If the applicant who wishes to operate a sexually oriented business is other than an individual, each individual who has greater than a 10% interest in the business must sign and provide all the information required by the application for a conditional use permit as an applicant and will be considered an operator if a conditional use permit is granted.
- (F) The fact that a person possesses any other valid license, certificate or permit required by law does not exempt him from the requirement of obtaining a sexually oriented business conditional use permit. A person who operates a sexually oriented business and possesses another business license, certificate or permit must comply with the requirements and provisions of this section as well as the requirements and provisions of the law concerning the other license, certificate or permit.
- (G) All applications must include a nonrefundable application fee of \$2,500.00. An application will not be considered to have been filed until all applicable fees are paid and all information required by the application form has been submitted.
- (H) The applicant must supplement an application with new information received after the date the application was deemed completed. Permittees must supplement application information within ten (10) days of any change in information provided in the application.
- (I) All sexually oriented businesses located within the city and in operation as a lawful use conforming to the zoning ordinance before the effective date of this section are granted a one-time waiver of the application fee. Upon satisfactory completion of the application and surrender of the existing business's current certificate of occupancy, a new conditional use permit will be issued.
- (J) A copy of all applications and supporting documentation for conditional use permits will be maintained by the building official.
- (K) Upon receipt of an application or supplemental information, the building official will review the application to determine if all required and necessary information has been submitted. The building official will issue a letter within a reasonable time after receipt of the application or supplemental information and advise the applicant whether supplemental information must be submitted. The applicant must provide any

supplemental information within 30 days or the application will be returned and the filing fee forfeited.

- (4) Public notice of pending application.
- (A) After the building official has issued a letter advising the applicant that the application is complete, the building official will cause signs (at least 24 inches by 36 inches in size) to be placed on the property subject to the proposed conditional use permit of occupancy that provide notification by specifically stating, with letters at least three inches wide and six inches tall, “SEXUALLY ORIENTED BUSINESS LICENSE APPLICATION PENDING”. All lettering on the signs other than above described, will be at least 1 and 1/2 inches x 2 inches in size for each letter on the sign. The sign will also include the name, city and state of residence of each applicant, the date on which the application was filed, and the time and place of the hearings. The signs will be placed on the property in sufficient quantities and locations to identify the property as being subject to a proposed sexually oriented conditional use permit of occupancy. One sign will be erected on each lot corner to identify the boundaries of the property in addition to one sign for each 300-foot increment of each public road or highway frontage on the property existing or any part thereof. The signs will be erected within seven days after the building official has issued a letter advising the applicant that the application is complete and will remain erected until the application has been approved or denied by the city council.
- (B) The city will give notice of the application and scheduled public hearings by publication in two consecutive issues of the city’s official newspaper. The notices will be printed in 10-point boldface type and will:
- (i) Include the fact that a sexually oriented business conditional use permit has been applied for;
 - (ii) Include the exact location, including the street address, of the place of business for which the certificate is sought;
 - (iii) Include the names of each owner of the business and, if the business is operated under an assumed name, the trade name together with the names of all owners;
 - (iv) Include, if the applicant is a corporation, the names and titles of all officers, directors and shareholders of 10% or more of the corporation;
 - (v) Include the dates and times of the public hearings; and
 - (vi) Be published at least 15 days before each public hearing.
- (5) Renewal of permit. Permits shall be valid for one (1) year from the issuance of the permit. Permits must be renewed annually by all persons having ownership interest or control of the sexually oriented business and all persons owning the

property upon which the sexually oriented business is located. Failure to renew the permit voids the permit.

- (6) Permit transfers. A permit is personal to the persons designated in the application. A permit may not be transferred except pursuant to and in compliance with this section. A transfer application must be filed within thirty (30) days of any change of persons designated on the current permit. A transfer application shall allow continuation of business under an existing permit while a new application is being processed. Any transfer application shall require and be treated in all respects as an original permit application. In the event that a transfer application is not timely filed, then the existing permit shall be invalid for any purpose relating to the operation of business. Provided, however, that nothing in this section shall affect the nonconforming use provisions herein.
- (7) Revocation of permit. Any violation of this section shall constitute grounds for revocation of a permit. A permit shall be revoked for any of the following violations:
- (A) The permittee(s) have located the sexually oriented business in violation of this section. Unless the business is a nonconforming use as defined herein.
 - (B) The permittee(s) failed to supply all of the information required on the application.
 - (C) The permittee(s) gave fraudulent or untruthful information on the application. This does not apply to clerical errors.
 - (D) The permittee, or any one permittee, has been convicted of a felony for which not less than ten (10) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, or a misdemeanor for which less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever date is the later date, of a crime in any state involving:
 - (i) Public lewdness, indecent exposure, or indecency with a child as described in the Texas Penal Code;
 - (ii) Prohibited sexual conduct, enticing a child, harboring a runaway child, or sale or purchase of a child as described in the Texas Penal Code;
 - (iii) Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution, or display of harmful material to a minor, sexual performance by a child, employment harmful to children, or possession or promotion of child pornography as defined in the Texas Penal Code;
 - (iv) Facilitation, attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or
 - (v) Any similar offense to those described above under the criminal or penal code of another state.

- (E) More than four criminal offenses are committed on the permitted premises in any consecutive twelve-month period which fall in one or more of the following categories:
- (i) Public lewdness, indecent exposure, or indecency with a child as described in the Texas Penal Code;
 - (ii) Prohibited sexual conduct, enticing a child, harboring a runaway child, or sale or purchase of a child as described in the Texas Penal Code;
 - (iii) Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution, or display of harmful material to a minor, sexual performance by a child, employment harmful to children, or possession or promotion of child pornography as defined in the Texas Penal Code; or
 - (iv) Facilitation, attempt, conspiracy, or solicitation to commit any of the foregoing offenses.
- (F) Any person under the age of eighteen, not otherwise permitted by the laws of Texas to view the material contained on the premises, is permitted to enter the premises.
- (8) Appeal. All denials and revocations of permit applications and renewals must be appealed to the city council.
- (A) If an application for issuance or renewal of a permit is denied a permit or a permit is revoked, upon notice of the denial or revocation of a permit, the aggrieved applicant or permittee shall have ten (10) days to appeal to the decision to the city council.
 - (B) The appeal of a revocation of a permit to the city council shall abate the revocation of the permit until such time as the city council may hold a public hearing.
- (9) Permit fee. Each application for a permit, including renewal or transfer, shall be accompanied by a \$2,500.00 application fee. In addition to the fees required for an initial license, the applicant at the time of making an initial application shall pay a nonrefundable fee of \$750.00 for the city to conduct a survey to ensure the proposed sexually oriented business is in compliance with the location restrictions set forth in subsection (d) of this section. Additionally, for each applicant identified thereon, there shall be an additional \$25.00 fee.
- (h) Specific violations.
- (1) A person commits a misdemeanor if he or she:
 - (A) Operates or causes to be operated a sexually oriented business without a conditional use permit. All sexually oriented businesses shall be located within the C-2 zoning district unless such business qualifies as a nonconforming use.

- (B) Operates or causes to be operated a sexually oriented business without a permit to operate a sexually oriented business.
 - (C) Operates or causes to be operated a sexually oriented business within one thousand (1,000) feet of any of the following uses in existence prior to the beginning of such business:
 - (i) A church, chapel, or other regular place of religious worship;
 - (ii) A public or private day-care, elementary, secondary school or institute of higher learning;
 - (iii) A boundary of any residentially zoned district;
 - (iv) A public park, library, or playground; or
 - (v) The property line of a lot used for residential purposes.
 - (D) Causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.
 - (E) Causes or permits the operation, establishment, or maintenance of more than one sexually oriented business, as defined herein, in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- (2) For the purpose of subsection (h)(1)(C) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure in which any, or any part of any, sexually oriented business is conducted, to the nearest property line of the premises described in subsection (h)(1)(C).
- (3) For purposes of subsection (h)(1)(D) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- (i) Nonconforming uses.
- (1) Any sexually oriented business lawfully operating on the effective date of this section that is in violation of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed 10 years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (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 established and continually operating at a particular location is the conforming use and the later-established business is nonconforming.

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- (2) 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 conditional use permit for a sexually oriented business, of a church, public or private day-care, elementary or secondary school, institute of higher learning, public park, library, or playground, or a residential lot within one thousand (1,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit and/or license has expired or has been revoked.
- (3) All nonconforming sexually oriented business uses in existence at the time of passage of this section within the city limits shall have sixty (60) days to apply for a permit to operate such sexually oriented business.

(Ordinance 12-17-01 (ord. 2), sec. 65, adopted 12/17/2001)

§ 9.03.077. through § 9.03.110. (Reserved)

Division 4
Administration

§ 9.03.111. General provisions.

The city building official shall administer the provisions of this ordinance, and in furtherance of such authority, the city building official shall:

- (1) Records. Maintain permanent and current records with respect to this article, including amendments thereto.
- (2) Applications. Receive, file, and review all zoning applications to determine whether such plats comply with this article.
- (3) Commission. Forward zoning applications to the commission as required by this article, together with its recommendations thereon.
- (4) Council. Forward zoning applications to the council, together with the recommendations of the commission and the city staff.
- (5) Implementation. Make such other determinations and decisions as may be required of the city by this article, the commission or the council; and enforce and implement this article and the final decisions by the commission and city council.

(Ordinance 12-17-01 (ord. 2), sec. 70, adopted 12/17/2001)

§ 9.03.112. Ordinance interpretation.

In the interpretation and application of the terms and provisions of this article, the following regulations shall govern:

- (1) Liberally construed. In the city's interpretation and application, the provisions of this article shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity, morals and welfare. This article shall

be regarded as remedial and shall be liberally construed to further its underlying purposes.

- (2) Highest standards govern. Whenever a provision of this article and any other provision of this article, or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.
- (3) Resolution of conflicting interpretations. Where there arises a question concerning the meaning or intent of a provision of this article, a written decision setting forth the manner in which said provision shall be interpreted and administered is encouraged. In the event exception is taken by any interested party to such a decision the matter may be appealed to the commission and, as appropriate, to the council whose decision shall be final.
- (4) Written decisions binding. Any final written decision made as provided in subsection (3) above shall be archived and shall govern interpretation of this article until such time as an amendment of this article shall nullify such decision, or the decision is over-ruled or rescinded by the city council.
- (5) State law. The terms, provisions and conditions of this article shall be interpreted and applied in a manner consistent with state law and chapter 211 of the Texas Local Government Code.
- (6) Master plan. All zoning applications shall conform to the master plan for the community and be consistent with all of the elements thereof.
 - (1) Where the proposed zoning application is inconsistent with one (1) or more of the elements of the master plan, the developer may petition the city for amendment to the particular element or elements of the master plan either prior to, or concurrent with, submitting a request for subdivision plat or development plan approval. Inconsistency with the provisions of the master plan shall be grounds for disapproval of the zoning application by the city.
 - (2) Where the proposed zoning is for a zoning district or category provided for in this article but that is not included on the master plan existing on the date of this ordinance, or not existing on the date of such application, the applicant shall propose an amendment to the master plan and provide information and documentation in support of such amendment.
- (7) Consistency with the subdivision ordinance. All development projects within the corporate limits of the city shall be in conformance with the city's subdivision ordinance. Where the proposed development requires a zoning classification or approval other than that currently applying to the property to be developed, the developer shall make appropriate application to secure the necessary zoning classification or approval required for the proposed development [such that the proposed development][??] would comply with this article.

(Ordinance 12-17-01 (ord. 2), sec. 71, adopted 12/17/2001)

§ 9.03.113. Board of adjustments.

- (a) Established. A board of adjustments (hereafter in this section, the “board”) is established in accordance with the provisions of section 211.008 of the Texas Local Government Code, regarding the zoning of cities and with the powers and duties as provided in said code.
- (b) Organization and procedure.
- (1) Establishment. A board of adjustment is hereby established in accordance with the provisions of section 211.008, Texas Local Government Code.
 - (2) Regular membership. The board shall consist of the members of the city council as authorized by section 211.008(g), each to be appointed or re-appointed in conjunction with the term of office for the individual council member. Each member of the board shall be removed upon their removal from the office of city council. Vacancies shall be filled for the unexpired term of the member whose term becomes vacant. The mayor shall serve as the chair of the board.
 - (3) Alternate members. The board shall have no alternate members.
 - (4) Meetings. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. A quorum shall consist of four members. The mayor, as board chair, shall have a vote on all matters concerning[??]
 - (5) Hearings. The hearings of the board of adjustment shall be posted as provided in chapter 551, Texas Government Code and shall be public, provided that upon the advice and consent of the city attorney the board may go into executive session pursuant to chapter 551, Texas Government Code.
 - (6) Rules and regulations. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and such minutes shall be immediately filed in the office of the board and shall be a public record. The board of adjustment shall act by resolution in which four members must concur. The board shall adopt rules in accordance and consistent with this article as necessary and required. A copy of any such rules shall be furnished. All rules and regulations shall operate uniformly in all cases and all resolutions and orders shall be in accordance therewith.
- (c) Meetings. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine.
- (d) Hearings. All meetings and hearings held by the board of adjustment shall be public; provided that upon the advice and consent of the city attorney the board may go into executive session pursuant to chapter 551 of the Texas Government Code.
- (e) Rules and regulations. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and such minutes shall be immediately filed in the office of the board and shall be a public record. The board of adjustment shall act by resolution in which four members must concur. The board may adopt rules in accordance and consistent with this article as necessary and required. A copy of any such rules shall be furnished to

any person requesting same. All rules and regulations shall operate uniformly in all cases and all resolutions and orders shall be in accordance therewith.

(f) Appeals.

- (1) Procedure. Any person aggrieved by a decision of an administrative officer in the enforcement of chapter 211 of the Texas Local Government Code, or this article, or any officer, department, board or bureau of the city affected by any such decision by an administrative officer, may appeal such decision to the board. Such appeal shall be made by filing with the office of the board and the officer whose action is being appealed, a notice of appeal specifying the grounds thereof. The officer from which the appeal is taken shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from is taken.
- (2) Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer whose decision is appealed shall certify to the board that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by restraining order granted for just cause by the board, or by a court of record, after notice to the officer from whom the appeal is taken.
- (3) Notice of hearing on appeal. The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall give public notice of the hearing and due notice to the parties in interest.
- (4) Decision by board. The board shall decide appeals within a reasonable time. Any party to the appeal may appear in person or by agent or attorney at any hearing. The board may, upon the concurring vote of four (4) members, reverse or affirm, in whole or in part, or modify the administrative official's order, requirement or decision, and make the correct order, requirement, decision, or determination on the matter appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made, and to that end, shall have all powers of the officer or department from whom the appeal is taken.

(g) Powers and duties of the board.

- (1) Appeals based on error. The board shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of chapter 211 of the Texas Local Government Code
- (2) Special exceptions. The board shall have the power to hear and decide special exceptions to the terms of this article when this article requires the board to do so. Such special exceptions shall be as follows:
 - (A) To permit a public utility or public service use or structure in any district as necessary to house equipment, pumps, switching gear, and similar devices only, required for the provision of the utility service or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public

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service building is permitted to be located, when found reasonably necessary for the provision of utility service and the public health, convenience, safety or general welfare.

- (B) To grant a permit for the extension of a use, height or area regulation into an adjoining district for any lot platted in an approved subdivision, where the boundary line of the district divides such lot and the lot was in a single ownership on June 3, 1991.
 - (C) Authorize a variance from the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, and where the topography or unusual shape of the lot and regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
- (h) Variances. The board shall have the power to authorize upon appeal in specific cases such variance from the terms of this article as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this article will result in unnecessary hardship, and so that the spirit of this article shall be observed and substantial justice done, including the following:
- (1) Yard and setback. Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardship in the carrying out of these provisions due to an irregular shape of the lot, topography or other conditions; provided that such variance will not significantly affect any adjoining property or the general welfare.
 - (2) Structures. Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this article relating to the construction or alteration of a building or structure or the use of land will impose unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this article as are in harmony with its general purpose and intent, but only when the board is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance as established by this article, and at the same time, the surrounding property will be properly protected; provided that the board shall not in any event permit a use on any property that is not permitted within the zoning category for which such property is zoned.
- (i) Changes. The board shall have no authority to change any provision of this article and its jurisdiction is limited to hardship and borderline cases which may arise from time to time.

(Ordinance 12-17-01 (ord. 2), sec. 72, adopted 12/17/2001)

§ 9.03.114. Conditions for issuing a building permit.

No building permit shall be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land, and no municipal utility

service will be furnished to such lot or tract which does not comply with the provisions of this article and all applicable elements of the master plan, except as herein exempted, or upon the written application and approval of a variance.

(Ordinance 12-17-01 (ord. 2), sec. 73, adopted 12/17/2001)

§ 9.03.115. Certificates of occupancy.

- (a) Policy and application. Certificates of occupancy shall be required for any of the following:
- (1) Occupancy and use of any structure or building hereafter erected or structurally altered, unless otherwise required.
 - (2) Change in use of an existing building to a use of a different classification.
 - (3) No occupancy of any new, or altered portion of any, structure or building, or any such building or structure for which there is a change of use, shall take place until a certificate of occupancy therefor shall have been issued by the city building official.
- (b) Procedure.
- (1) New and altered structures. 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 within three (3) days after a written request for the same has been made to said city building official or his agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this article and all applicable city codes and ordinances.
 - (2) Change in use. Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a nonconforming use, as herein provided shall be made to said city building official. If the proposed use is in conformity with the provisions of this article, the certificate of occupancy shall be issued within three (3) days after the application for same has been made.
- (c) Approval. Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all certificates of occupancy shall be kept in file in the office of the city building official or his agent and copies shall be furnished on request to any person having proprietary or tenancy interests in the building or land affected.
- (d) Temporary certificate of occupancy. Pending the issuance of a regular certificate of occupancy, a temporary certificate may be issued by the city building official for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties or obligations of the owners, or of the city, relating to the use or occupancy of the premises or any other matter covered by this article.

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- (e) Nonconforming uses. A certificate of occupancy shall be required for all lawful nonconforming uses of land or buildings created by adoption of this article. Application for such certificate of occupancy for a nonconforming use shall be filed with the city building official by the owner or lessee of the building or land occupied by such nonconforming use within one (1) year of the effective date of this article. It shall be the duty of the city building official to issue a certificate of occupancy for a lawful nonconforming use, and the refusal of the city building official to issue a certificate of occupancy for such nonconforming use shall be evidence that said nonconforming use was either illegal or did not lawfully exist at the effective date of this article.

(Ordinance 12-17-01 (ord. 2), sec. 74, adopted 12/17/2001)

§ 9.03.116. Fees.

To defray the costs of administering this article, the applicant seeking plat approvals shall pay to the city, at the time of submittal, the prescribed fees as set forth in the current administrative fee schedule approved by the council, and on file in the office of the city. When applications require review, actions or inspections by an engineer or the city attorney, such reasonable and necessary costs shall be reimbursed from the applicant to the city.

(Ordinance 12-17-01 (ord. 2), sec. 75, adopted 12/17/2001)

§ 9.03.117. Amendments.

The council may, from time to time, adopt, amend and make public rules and regulations for the administration of this article. This article may be enlarged or amended by the council after public hearing, due notice of which shall be given as required by law.

(Ordinance 12-17-01 (ord. 2), sec. 76, adopted 12/17/2001)

§ 9.03.118. Violations.

Except as otherwise provided for in this article, it shall be unlawful for any person, firm or corporation to develop, improve or sell any lot, parcel, tract or block of land within the city's territorial jurisdiction, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this article.

(Ordinance 12-17-01 (ord. 2), sec. 77, adopted 12/17/2001)

§ 9.03.119. Enforcement.

- (a) Administrative action. The building official, city engineer and/or the city administrator shall enforce this article by appropriate administrative action, including but not limited to the rejection of plans, maps, plats and specifications not found to be in compliance with this article and good engineering practices, and the issuance of stop work orders.
- (b) Court proceedings. Upon the request of the city council the city attorney shall file an action in the district courts to enjoin the violation or threatened violation of this article, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the city to undertake any

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construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this article.

(Ordinance 12-17-01 (ord. 2), sec. 78, adopted 12/17/2001)

§ 9.03.120. through § 9.03.150. (Reserved)

Division 5

Closing Provisions

§ 9.03.151. Construction.

The terms and provisions of this article shall not be construed in a manner to conflict with chapter 211 of the Texas Local Government Code and if any term or provision of this article shall appear to conflict with any term, provision or condition of chapter 211, such term or provision of this article shall be read, interpreted and construed in a manner consistent with and not in conflict with such chapter, and, if possible, in a manner to give effect to both. The standard and accepted rules of statutory construction shall govern in construing the terms and provisions of this article.

(Ordinance 12-17-01 (ord. 2), sec. 80, adopted 12/17/2001)

§ 9.03.152. Amendment and repeal.

All ordinances or parts thereof conflicting or inconsistent with the provisions of this article as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this article and any other code or ordinance of the city, the terms and provisions of this article shall govern.

(Ordinance 12-17-01 (ord. 2), sec. 81, adopted 12/17/2001)

§ 9.03.153. Severability.

If any provision of this article or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

(Ordinance 12-17-01 (ord. 2), sec. 82, adopted 12/17/2001)

§ 9.03.154. Effective date.

This article shall take effect immediately from and after its passage and publication in accordance with the provisions of chapter 52 of the Texas Local Government Code.

(Ordinance 12-17-01 (ord. 2), sec. 83, adopted 12/17/2001)

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§ 9.03.155. Open meetings.

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, chapter 551 of the Texas Government Code.

(Ordinance 12-17-01 (ord. 2), sec. 84, adopted 12/17/2001)

§ 9.03.156. Penalty.

Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(Ordinance 12-17-01 (ord. 2), sec. 85, adopted 12/17/2001)

Chapter 10

STREETS, PARKS AND OTHER PUBLIC WAYS AND PLACES

**ARTICLE 10.01
GENERAL PROVISIONS (RESERVED)**

- § 10.03.008. Deposit of debris on public property or drainage area.
- § 10.03.009. Penalty.

**ARTICLE 10.02
PARKS AND RECREATION**

§ 10.02.001. Hours of operation for city park.

**ARTICLE 10.04
EXCAVATION OR CONSTRUCTION
ACTIVITY IN STREET OR RIGHT-OF-
WAY**

- § 10.04.001. Definitions.
- § 10.04.002. Jurisdiction of city.
- § 10.04.003. Permits.
- § 10.04.004. Bond and liability.
- § 10.04.005. City facilities and lands.
- § 10.04.006. Duties and responsibilities.
- § 10.04.007. Right to inspect; correction of violations.
- § 10.04.008. Costs of repair or correction.
- § 10.04.009. City’s rights reserved.
- § 10.04.010. Enforcement.
- § 10.04.011. Penalty.
- § 10.04.012. Court proceedings.
- § 10.04.013. Indemnity.
- § 10.04.014. Governmental immunity.

- ARTICLE 10.03
DRIVEWAYS, DITCHES AND
CULVERTS**
- § 10.03.001. Driveway construction permit required; application.
 - § 10.03.002. Issuance or denial of driveway permit.
 - § 10.03.003. Driveway permit fee; time limit.
 - § 10.03.004. Minimum standards; special requirements.
 - § 10.03.005. Driveway inspection; failure to comply.
 - § 10.03.006. Responsibility of owner and occupant.
 - § 10.03.007. Culvert maintenance.

**ARTICLE 10.01
GENERAL PROVISIONS (RESERVED)**

**ARTICLE 10.02
PARKS AND RECREATION**

§ 10.02.001. Hours of operation for city park.

(a) Hours established; exceptions.

- (1) The city park is open during the daytime every day of the week. Daytime begins one-half hour before sunrise and ends one-half hour after sunset.

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(2) Events approved by the city council, including Holland Football Association and Holland Baseball Association events and the Corn Fest, are exempt from the park hour restrictions.

(b) Penalty. Any violation of this section shall constitute a misdemeanor and upon conviction shall be punishable by a fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00). Each day the offense occurs or continues shall constitute a separate offense.

(Ordinance 02-20-2021 adopted 2/22/2021)

ARTICLE 10.03 DRIVEWAYS, DITCHES AND CULVERTS

§ 10.03.001. Driveway construction permit required; application.

Any person intending to construct a driveway which will connect with a public street must secure a permit before beginning construction from the city secretary or the council's designee. The application must, as a minimum, contain the following:

- (1) Name and address of the applicant;
- (2) Where the driveway is to be located;
- (3) When the driveway will be constructed;
- (4) A plan (with specifications) which describes the driveway;
- (5) Payment of the permit fee.

(Ordinance 3-12-01, sec. 1, adopted 3/12/2001)

§ 10.03.002. Issuance or denial of driveway permit.

The city engineer or the council's designee will review the application pursuant to this article and notify the applicant of his decision within ten (10) working days. If no notice is received within ten (10) working days, then the applicant may assume the permit has been denied. When an application is denied the applicant may appeal to the city council.

(Ordinance 3-12-01, sec. 2, adopted 3/12/2001)

§ 10.03.003. Driveway permit fee; time limit.

The city will charge a fee as provided for in the fee schedule in appendix A of this code per permit pursuant to this article. If construction is not commenced within twelve (12) months of the filing date of the applicant, then the permit is void.

(Ordinance 3-12-01, sec. 3, adopted 3/12/2001)

§ 10.03.004. Minimum standards; special requirements.

The city engineer or the council's designee will immediately prepare and post a list of minimum standards and requirements for the construction of driveways. The standards and requirements will be effective when presented to the city. The city engineer or the council's designee may at any time prescribe special requirements for the construction and/or location of a driveway.

(Ordinance 3-12-01, sec. 4, adopted 3/12/2001)

§ 10.03.005. Driveway inspection; failure to comply.

Completed projects will be inspected by the city engineer or the council's designee to insure compliance. Those whose projects are not in compliance will be allowed thirty (30) days in order to comply. If they have not complied in thirty (30) days, then their permit is void. Any existing driveway which in the opinion of the city council constitutes a threat to the safety and welfare of the citizens of the city shall be corrected at the property owner's expense within sixty (60) days after receiving notice.

(Ordinance 3-12-01, sec. 5, adopted 3/12/2001)

§ 10.03.006. Responsibility of owner and occupant.

It shall be the responsibility and duty of the owner and the occupant of property within the city to construct, reconstruct, install, repair and maintain, from time to time as required, any driveway and/or culvert necessary to connect such property with a public street. The driveway and any culvert, whether existing or to be installed, to serve any property shall be constructed, reconstructed, installed, repaired and maintained by the owner and the occupant of such property in a manner to prevent such driveway and/or culvert from interfering with, diverting or obstructing the flow of stormwater and drainage.

(Ordinance 3-12-01, sec. 6, adopted 3/12/2001)

§ 10.03.007. Culvert maintenance.

It shall be the responsibility and duty of the owner and the occupant of any property for which a culvert exists or is maintained for the purpose of connecting, or providing access for, such property with a public street to keep such culvert open and free of obstruction or debris, and to repair, reconstruct, raise or lower the grade, and maintain such culvert from time to time to assure the culvert does not interfere with or obstruct the flow or drainage of stormwater, or divert stormwater from the bar ditch or drainage channel.

(Ordinance 3-12-01, sec. 7, adopted 3/12/2001)

§ 10.03.008. Deposit of debris on public property or drainage area.

It shall be unlawful for any person, firm or corporation, who is not a public employee or entity contracting with the city and in the course and scope of their public employment or public works contract, to dump, throw, deposit or leave any refuse, garbage, rubbish, trash, leaves, grass, lawn clippings, limbs, dead trees, tree trunks, junk, rock, rubble or soil on any

street, right-of-way, easement, or public property within the city. It shall further be unlawful for any person to dump, throw, deposit or leave any refuse, garbage, rubbish, trash, leaves, grass, lawn clippings, limbs, dead trees or tree trunks or junk on any property, whether publicly or privately owned, that by design, elevation, slope, terrain or nature serves as a part of the man-made or natural drainage system of the city or any part of the city; provided that this section shall not prevent any land owner from obtaining any permit authorized by city ordinance, to fill any land area in compliance with such permit and the ordinances and codes of the city; and provided further that this section shall not apply to or prohibit the dumping or deposit of any such materials or debris on public property designated for such purpose by the public entity owning such property, as authorized by an ordinance of the city.

(Ordinance 3-12-01, sec. 8, adopted 3/12/2001)

§ 10.03.009. Penalty.

Any person violating any provision of this article within the corporate limits of the city shall be guilty of a misdemeanor, and upon conviction shall be fined an amount not exceeding five hundred dollars (\$500.00). Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this article.

(Ordinance 3-12-01, sec. 9, adopted 3/12/2001)

ARTICLE 10.04

EXCAVATION OR CONSTRUCTION ACTIVITY IN STREET OR RIGHT-OF-WAY

§ 10.04.001. Definitions.

As used in this article, all words shall have the common meaning of such word and the following terms shall have the meaning indicated below unless the context clearly indicates otherwise:

Building inspector or inspector means the person, his staff or employees, or entity designated by the city to perform the duties and responsibilities set forth herein to be performed by the city, or, if none has been designated, the city administrator.

Construction activity or work shall include, but is not limited to, the causing or carrying out of any man-made change in any property or facility through building, erecting, installing, bulkheading, filling, mining, dredging, clearing, paving, grading, excavating, boring, drilling, or the addition, removal or alteration of any facility or any improvement to property, including altering of the size of any facilities, or other similar work or activity, in, over, under, through, along or across the rights-of-way or streets within the city limits.

Contractor shall mean and include, but is not limited to, the person possessing a permit, franchise or license agreement as required under this article and all persons actually performing, directing, monitoring, managing or overseeing any construction activity, work or other such similar activity in, over, under, through, along or across any streets or rights-of-way within the city limits.

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Excavation means any man-made formation of a cavity, hole or hollow by way of any means of digging, plowing, quarrying, uncovering, blasting, scooping, drilling, dredging, bulldozing, relocating or making cuts, openings, borings or other action or processes to form a cavity, hole or hollow.

Facility or facilities means any plant, equipment and property, including, but not limited to, duct spaces, manholes, poles, towers, utility pipes, pipes, conduits, lines, wires, transmission media, underground and overhead passageways or other equipment, structures and appurtenances which are located in, over, under, through, along or across the rights-of-way or streets.

Installation means the addition, removal, repair or alteration of any facility located in, over, under, through, along or across the rights-of-way or streets.

Owner means any person having financial interests in property or facilities located in, over, under, through, along or across streets and rights-of-way in the city, including the person directing the actions of any contractor, paying a contractor, or for whose benefit the actions of the contractor are undertaken.

Person shall mean and include an individual human, partnership, firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, association, legal entity, or corporation of any kind, including but not limited to any provider of any utility service or public service, as those terms are defined below.

Permanent structure means any facility located in, over, under, through, along or across the rights-of-way or streets within the city limits that occupies, affixes or otherwise is to remain in the same location for a period of time of more than thirty (30) days.

Public service means any business or commercial activity which is not included in the definition of “utility service” that requires the use of the public streets or rights-of-way for the location of any facility or equipment to provide services to persons or property situated within the city, including but not limited to cable television service and services using a transmission media, but excluding telephone, taxi service and solid waste collection.

Rights-of-way means the surface of, and the space above and below, any and all present and future public thoroughfares, public utility easements, public ways, public grounds, and public waterways and, without limitation by the foregoing, any other public property within the corporate limits of the city.

Streets means the surface of, and the space above and below, any and all present and future public streets, avenues, highways, boulevards, drives, roads, bridges, alleys, lanes, viaducts and all other public roadways within the city limits and any highways, county roads or other public roadways for which the city has an agreement or contract to control, regulate or maintain.

Transmission media means all cables, fibers, wires, tubes, pipes or other physical devices used to transmit and/or receive communication signals, whether analog, digital or of other characteristics, and whether for voice, video or data, or other purposes, which are physically located in the rights-of-way or streets.

Utility service shall have its common meaning and shall specifically include, but not be limited to, electric, water, wastewater, gas and telephone service.

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

§ 10.04.002. Jurisdiction of city.

- (a) The city shall have exclusive dominion, control and jurisdiction in, over, under, through, along and across the streets and rights-of-way, and may provide for the improvement thereof by paving, re-paving, raising, draining, realigning, closing, or otherwise the use thereof. The provisions, without limitations, of law providing for assessments against abutting property for street improvements are expressly adopted. Such exclusive dominion, control and jurisdiction in, over, under, through, along and across the streets and rights-of-way of the city shall also include, but not be limited to, the power to regulate, locate, remove or prohibit the location, installation, alteration or removal of any type of facility or other property in, over, under, through, along or across any streets or rights-of-way. The location, alteration or removal, including the route, of all facilities within the rights-of-way or streets shall be subject to the reasonable direction of the city.
- (b) It shall be unlawful for any owner or contractor, including his or her agents, servants, independent contractors, or employees, to occupy or obstruct any portion of the right-of-way or streets or to perform any construction activity, or to cause another to do the same, for any purpose in, over, under, through, along or across any street or right-of-way without first having made all applications for permits and, when required, obtained all permits therefor, together with a bond approved by the building inspector in an amount determined as herein provided, conditioned that the principal therein will discharge all claims of every character arising from or occasioned by such occupancy or construction activity or by reason of damages or injuries sustained by persons or property because of such occupancy, construction activity, excavation or other such activity thereon and discharge all judgments obtained, together with all costs attached thereto, against the city by reason of any such claim, injury or damage sustained. The contractor and owner carrying on any construction activity or excavation shall keep all streets and rights-of-way adjacent to such construction activity or excavation carried on by such contractor or owner in a clean, safe and orderly condition, and unobstructed, except as provided in this article, during all such activities, and shall restore all such streets, rights-of-way, facilities and other structures damaged, altered or injured, in any way, to as good condition as they were before the beginning of such activities. The owner or contractor may, in lieu of providing a separate bond on each permit or construction project, annually file with the city a bond providing the above-required coverage to the city, which bond shall be and remain in effect for a term of one year and applicable to all work performed by the owner or contractor within the city.
- (c) It shall be unlawful for any person to use or occupy any street or right-of-way for the purpose of providing abutting, adjoining or other property with any utility service, public service, data, voice or video transmission service, cable television, taxi or solid waste collection service, without having first obtained a franchise or license issued and approved by the city council, except as specifically provided otherwise by state law.

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- (d) Construction activity, excavation, obstruction or other work shall cease immediately upon the issuance of a stop work order from the building inspector or from any authorized law enforcement agent of the city. It shall be unlawful to remove a stop work order placed upon a construction or work site until compliance with this article has been accomplished. No work so ordered to stop shall commence after issuance of the stop work order until the violation has been corrected and the building inspector in writing authorizes the contractor to begin again.
- (e) It shall be unlawful and a violation of this article for any person, contractor or owner to maintain an existing excavation within the city or to work upon or assist in any way in the execution or operation of any such excavation, without an excavation permit having been issued by the city in accordance with this article.
- (f) It shall be unlawful for the owner of any building or property abutting on any street or right-of-way in the city, or any tenant occupying such building or property, or any other person, to construct, build, operate or maintain any building, facility, or part thereof, including a show window, which extends over any part of any street or right-of-way.
- (g) It shall be unlawful to erect, remove, repair, install, build or alter, in any fashion whatsoever, any posts, poles, towers or other facilities that are erected for the purpose of bearing wires, cables or any other transmission media, or to alter in any fashion any existing posts, poles, towers or other facilities that are used in connection with any telegraph, electric light, telephone, street railway, transmission media, radio or like purpose, and none shall be erected, placed, kept or maintained upon any street or right-of-way within the city, unless a written permit shall have first been obtained from the building inspector to erect, install, remove, repair, build or alter, in any fashion whatsoever, such posts, poles, towers or other such facility.

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

§ 10.04.003. Permits.

Application for a permit required by section 10.04.002 of this article shall be addressed to the city secretary and made on a form furnished for that purpose, detailing the extent, character and purpose of any construction activity or other work to be performed.

- (1) Permits required. The owner or contractor for all construction activity, installations, and similar activities must have applied for and have been issued all of the permits required for the work. A permit shall not be required from any holder of a franchise, license or holder of a permanent occupation permit to perform any minor alteration of an existing facility necessary to initiate service, repair service or for routine maintenance to an individual customer's property unless the repair or maintenance requires excavation or temporary closure of nonresidential traffic lanes. The types of activities which must have a permit issued pursuant to this article are:
 - (A) Excavation of right-of-way or street. Any person considering excavation, cutting, boring, digging or demolition activity in, over, under, through, along or across the streets or rights-of-way shall, in advance of same, submit a design plan to the city for review and comment and shall secure proper permits and/or approvals and pay the fees as required.

- (B) Construction activity in right-of-way or street. Any person considering adding, repairing, removing or altering any facility or foliage, whether owned by such person or not, in, over, under, through, along or across the streets or rights-of-way within the city limits shall, in advance of same, submit a design plan to the city for review and comment and shall secure proper permits and/or approvals and pay the fees as required.
- (C) Permanent structures occupying rights-of-way or streets. The owner of all permanent structures, appurtenances, or facilities located in, over, under, through, along or across the streets or rights-of-way shall, in advance of installation, placement or construction thereof, submit a design plan and specifications as required herein and as required by the building inspector for review and comment, and shall secure the proper permits and/or approvals and pay fees as required. The owners of permanent structures, appurtenances or facilities located in, over, under, through, along or across the streets or rights-of-way at the time of passage of this article shall have (60) days to submit an application for a permit and secure such permit before enforcement action may be taken. One application may include all the owner's permanent structures, appurtenances and facilities that are located in, over, under, through, along or across the streets or rights-of-way of the city.
- (D) Temporary obstruction of right-of-way or street. Any person desiring to temporarily occupy or obstruct any portion of any street or right-of-way for the purpose of placing thereon material or rubbish for or from construction activities, obstructing any portion of any street or right-of-way for any purpose whatsoever connected with any construction activities or erection, or installation, removal, alteration or repair of any facility or other structure or excavation that will temporarily obstruct any street or right-of-way shall apply to the building inspector for a permit for such temporary obstruction and shall secure the proper permits, approvals and pay fees as required.
- (2) Permit fees. In the event an application is made for a permit to perform any construction activity in any of the streets or rights-of-way, such permit shall be subject to the following permit fees to cover the costs and expenses of the city. Acceptance of any such permit shall constitute an acceptance by the permittee of the conditions of the permit and any of the obligations and duties to repair any cut, damage, injury or excavation in full compliance with the requirements set forth in exhibit "A", attached to Ordinance 3-13-00 and incorporated herein as if fully transcribed herein. Payment for each such permit shall be made with the application for the permit. No permit shall be issued for less than the required permit fee.
- (A) Construction permit minimum fee. The fee for each permit required pursuant to this article for any construction activities, other than excavations, including but not limited to installation, removal, repair, addition or other alteration of any facilities or foliage in the rights-of-way or streets, shall be as set forth in the fee schedule in appendix A of this code, plus the amount of any other permit fees and any engineering or other professional fees reasonably incurred by the city for and with respect to such permit. In the event that the permit is recommended for issuance, an additional fee as set forth in the fee schedule in appendix A of this code, per calendar month, for the duration of the permit, shall be paid in advance

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prior to issuance of the permit for the purpose of inspecting the site during the construction process.

- (B) Excavation permit minimum fee. The fee for each permit required pursuant to this article for any drilling, boring, cutting or otherwise any excavation of any portion of the rights-of-way or streets shall be as set forth in the fee schedule in appendix A of this code, plus the amount of any other permit fees and any engineering or other professional fees reasonably incurred by the city for and with respect to such permit. In the event that the permit is recommended for issuance, an additional fee as set forth in the fee schedule in appendix A of this code, per calendar month, for the duration of the permit, shall be paid in advance prior to issuance of the permit for the purpose of inspecting the site during the excavation process.
- (C) Professional fees. In addition to the above permit fees, the city shall be fully reimbursed for all reasonable costs associated with activities in the streets or rights-of-way pursuant to this article that require inspection, plan review or any other reasonable overview or action by an engineer or other professional. All engineer and other professional fees shall be paid prior to issuance of a permit. Permits shall not be issued to, and may not be maintained by, any person owing engineer or other professional fees to the city.
- (D) Plumbing permit fees. Any person who desires to install, repair or alter any pipes, lines, tubes or pipes for which any water, solid waste, gas, oil or other such product may flow, in or under the rights-of-way or streets, shall submit to the building inspector the plans and specifications showing the proposed improvements. It shall be the duty of the building inspector, when such plans and specifications have been submitted, to cause a qualified plumbing inspector to make an inspection of the proposed improvements. An inspection fee as set forth in the fee schedule in appendix A of this code shall be paid by the applicant before such permit is issued.
- (E) Electrical permit fees. Any person who desires to build, erect, alter, install, repair or remove any poles, posts, towers or other similar facilities for which any wires, cables, electrical wires or transmission media are located or will be located shall submit to the building inspector plans and specifications showing the proposed improvements and existing conditions on such poles, posts, towers or such similar facility. It shall be the duty of the building inspector, when such plans and specifications have been submitted, to cause a qualified electrical inspector to make an inspection of the proposed improvements. An inspection fee as set forth in the fee schedule in appendix A of this code shall be paid by the applicant before such permit is issued.
- (F) Certificate of occupation fees. The fee for each certificate of occupation required pursuant to this article for a permanent structure to occupy any right-of-way or streets shall be as set forth in the fee schedule in appendix A of this code, and such fee shall be paid in advance annually from the original date of the issuance of the certificate of occupation.
- (G) Fee for temporary obstruction of right-of-way. A fee and special assessment for temporary obstruction or occupation of any right-of-way or street shall be as set

forth in the fee schedule in appendix A of this code, per day of obstruction, to reimburse the city for costs of increased supervision and overview of such site while such obstruction exists, plus any costs or charges for special assignment of police officers to monitor, escort, or otherwise provide services to help protect the public from the construction activities or excavation and any other similar expenses reasonably incurred by the city for and with respect to such temporary obstruction. Such requirement shall not excuse, diminish or waive the duty of the owner or contractor to conduct any such obstruction or excavation, and to erect warning signs, devices and barricades, in a manner to protect the general public, pedestrians and motorists.

- (3) Duration. All activities or construction authorized by a permit issued under this article shall be commenced within six (6) months after the date of issuance of the permit and thereafter be continuously prosecuted to completion, or such permit shall be void and the person to whom the permit was issued must make a new application before commencing or continuing any further activities or construction. Each permit issued shall be issued for a specific time period with a maximum period of one year, after which period the permit shall be void and the person to whom the permit was issued must make a new application for a new permit for each succeeding year or portion thereof. If the permit is allowed to expire, the person shall apply for and procure a new permit, paying the fee therefor as before, prior to proceeding with any such work.
- (4) Application. Applications for permits required by this article shall be made to the building inspector and must be made in writing by the person to do the work, the contractor, or his authorized agent, that will be submitted in duplicate upon forms provided to the building inspector for that purpose. An application for such permit may be deposited at the office of the city secretary for delivery to and action by the building inspector. Such application shall contain:
 - (A) General information. Date the application is submitted; name, address, phone, fax and other pertinent information of owner(s) and name of all contractor(s), including subcontractors, employed, or that will be employed, to perform any portion of any construction activity or excavation; name of person actually presenting the application to the inspector; name, address, phone, fax and other pertinent information of the person(s) designated to be the 24-hour contact or emergency contact at all times while the permit is active (the applicant must immediately notify the building inspector in writing if such emergency contact changes, and no later than 24 hours after such change, to maintain an active permit); exact location and legal description of any property, streets or rights-of-way where the construction activities or excavation is proposed to occur; to the extent that information can be reasonably obtained, all design plans shall show the location of other permanent structures, facilities and utilities which will be crossed or paralleled within eight (8) feet of the location of the proposed permanent structure and identify the owner(s) thereof, including the topography of the area to be affected, and other development and protective measures, considered necessary to create a reasonable transition to, and protection of, the adjacent property and facilities.
 - (B) Fee. A fee, appropriate to the number and kinds of installations, alterations, removals or construction activities to be made or activities to be performed.

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- (C) Proof of liability insurance or bond. Proof of liability insurance or bond in the amount of not less than \$500,000.00 personal injury and property damage.
- (i) An applicant must provide proof of liability insurance in the required amount;
 - (ii) The coverage must be on an “occurrence” basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, and underground, explosion and collapse hazards as applicable to the size and type of project;
 - (iii) Each policy must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits; and
 - (iv) The applicant shall file the required original certificate of insurance or bond prior to any commencement of work.
- (D) Description of work. A description of the work to be performed. Where deemed necessary by the inspector to accomplish the objectives of this article, applications shall be accompanied by as many copies of specifications, plans and a complete layout drawn to scale and in detail to show the nature and character of the work to be performed as the inspector may deem necessary. The plan or diagram shall show the manner in which the installations or construction activities are to be made or the character of any of the repairs to existing installations or construction activities. When such plans, specifications and layout are demanded, it shall be a violation of this article for any person to perform construction activities or install any part of the electrical, plumbing, cables, facilities or structure or perform further excavation or construction activity until the appropriate inspector approves such installation or construction activity.
- (E) Duration of work. Estimated duration of any construction activity, installation and/or excavation which will result in the disturbance or modification of any rights-of-way, streets or property and the exact locations for each such disruption or disturbance, including an estimation of the duration of each disruption or disturbance at each location.
- (F) Excavations. If any site is to be excavated the application must include:
- (i) The purpose or reason for the removing or moving of the soil;
 - (ii) The quantity in cubic yards of soil to be moved or removed;
 - (iii) The location where the soil will be moved or deposited;
 - (iv) Identification of each building, residence or structure within one hundred fifty (150) feet of the proposed excavation;
 - (v) A positive statement that the proposed excavation shall not block, encumber or close any street or disturb the lateral support thereof;

- (vi) A positive statement that the proposed excavation is not and shall not be located in an area which has a public record restrictions or covenants prohibiting such a use of the property;
 - (vii) The proposed slopes and lateral supports to be used in the excavation shall be set forth;
 - (viii) The present and proposed arrangements made for surface water drainage;
 - (ix) The safety precautions to be installed and maintained at the site, such as fences around the excavation, traffic-control devices and drainage systems to keep the excavation from collecting water within or creating a hazard to workers, travelers and citizens;
 - (x) Specifications of all materials to be used in repair of the excavation;
 - (xi) The intended use or condition of the land upon completion of the excavation process; and
 - (xii) Such other pertinent data as the building inspector may require.
- (G) Permanent structures. If a permanent structure is to be added or remain within any street or right-of-way, the owner(s) of such structure must complete an application for certificate of occupation for the permanent occupation of the right-of-way, including:
- (i) The person or firm which will operate or maintain the permanent structure;
 - (ii) The origin point and the destination of the permanent structure;
 - (iii) A description of the substance to be transported through the permanent structure;
 - (iv) Engineering plans, drawings and/or maps with summarized specifications showing the horizontal and vertical location of all permanent structures, including covering depths, poles, towers, etc., and the location of any shut-off valves or other such disconnect locations, where applicable. If the city has a computer-generated mapping system, the applicant will provide final as-built plans in a format compatible with uploading into the city's system;
 - (v) A description of the consideration given to matters of public safety and the avoidance, as far as practicable, of existing inhabited structures and congregated areas;
 - (vi) Detailed cross-section drawings of all streets, rights-of-way and easement crossings to be affected;
 - (vii) The design criteria under which the permanent structure will be constructed and maintained; and
 - (viii) Any other pertinent data as the building inspector may reasonably require.

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- (H) Certificated telecommunications providers. If the applicant for a permit purports to be a telecommunications entity, in addition to the above required information the application shall include:
- (i) Specifications as to the form of transmission media to be utilized;
 - (ii) Design plans and specifications concerning the transmission media;
 - (iii) A copy of the certificate of convenience and necessity, certificate of operating authority or service provider certificate of operating authority from the public utilities commission authorizing local exchange telephone service in the city;
 - (iv) Verification of current payment of all fees and right-of-way fees to the public utilities commission; and
 - (v) Other such pertinent information as the inspector may reasonably require.
- (5) Review of application. The city council shall have the power and reserves the authority to refuse to issue a permit under this article, including a certificate of occupation, to any person, contractor or owner who has not complied with this article, has previously failed to comply with the terms, requirements or standards of any prior permit issued for a similar project, or who has failed to provide insurance and bond as required. Additionally, the city council shall have the power and reserves the authority to refuse any permit, or to modify or amend any application for permit, where the particular location, by reason of the nature of such particular location, the character and value of the permanent improvements already erected on or approximately adjacent to the particular location, and the use of which the land and surroundings, when in the building inspector's opinion, or on appeal to the city council in the city council's opinion, the excavating, operation of an excavation or addition or alteration of any such proposed facility on such particular location or construction activity would constitute a nuisance, be injurious to public health, be a public hazard to the inhabitants as a whole, or to a substantial number of its inhabitants or travelers, or be a disadvantage to the city in its planned growth, or otherwise have a negative impact on the property values of property within the city.
- (6) Factors to be considered. In considering and reviewing all plans submitted and applications for permits, including a certificate of occupation, the building inspector shall be guided by the general purpose of orderly municipal planning, avoiding conditions or the doing of any act constituting or creating a nuisance, health hazard or endangering the public safety. As aids in accomplishing these purposes, the following points shall be considered by the inspector in reviewing applications for permits; however, such aids shall not be exclusive in the inspector's consideration and ultimate recommendation:
- (A) The plan's compliance with all provisions of this article and other ordinances of the city;
 - (B) The environmental 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;

- (C) The relationship of the development to adjacent uses in terms of harmonious use and design, maintenance of property values, and negative impacts;
- (D) The provision of a safe and efficient vehicular and pedestrian circulation system;
- (E) Surface water drainage and water drainage facilities of the excavation or installation, including soil and earth erosion by water and wind;
- (F) Lateral supports of the excavation, including protections for existing buildings, facilities, streets and other property to be affected thereby;
- (G) Conditions in which the excavation, construction activities or installation are to be maintained and safeguards to be taken to prohibit creating a nuisance, health or safety hazards or attractiveness to children, and features provided to dispense with the endangering of the lives and property of the public;
- (H) Proposed use or condition of land upon completion of excavation process, construction activity or installation;
- (I) Protection, access and encumbrance such installation, construction activity or excavation will have upon existing facilities and the location of the facilities in reference to the proposed excavation or installation, including the size, quantity, location and permanent nature of the all facilities currently located or proposed to be located therein; and
- (J) Such other facts as may bear or relate to the coordinated, adjusted and harmonious physical development of the city.

In arriving at the ultimate recommendation, the inspector may attach such special conditions thereto as may be reasonably necessary to attain the overall purpose of this article.

- (7) Right of appeal. Appeals from the denial or granting of a permit, including a certificate of occupation, shall be made to the city council.
 - (A) If an application for a permit is refused, the applicant may, not later than ten (10) days from the date of receiving notice of such refusal, appeal to the city council by directing a letter to the city council setting forth therein the date of denial of the permit and the reasons the permit should be granted.
 - (B) If the inspector grants the permit, any citizen of the city who is or may be injured or damaged thereby may, within ten (10) days of the recommendation to grant the permit, appeal to the granting of the permit to the city council, by directing a letter to the city council addressed to the office of the city secretary, at the city hall, setting forth therein the date of the action by the inspector and the reasons the person appealing believes that (s)he has been or will be injured by the action from which (s)he is taking such appeal.
 - (C) Upon the filing of such appeal, the right to operate under any such permit shall be suspended until final determination by the city council.
 - (D) The city council shall, on receiving such notice of appeal, direct the city secretary to place it on the city council's work agenda to be considered in the due order of

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city business. The city secretary shall then notify the applicant and any other appellant as to the date and place where the city council will consider the appeal and publish a notice one time in the official newspaper at least five (5) days before the date when the city council will consider the appeal.

- (E) The city council on considering the appeal may, by majority vote of all members in attendance and voting, either grant or refuse to grant the permit. The decision of the city council shall be the final decision and binding on all parties.
- (8) Conditions of permit. All permits, including certificates of occupation, shall be issued based upon the representations made within the application for the permit, information provided from the applicant, information known to the inspector and/or city council, and all plans and specifications submitted with the application. Violations of any conditions of the permit or the general conditions listed herein shall constitute a forfeiture of all rights and privileges granted by the permit(s). The following general conditions of permits are in addition to the specific conditions identified in the specific permit:
- (A) Permit holders may not deviate from the plans and specifications approved with the permit without prior written permission from the building inspector and amendment of such permit.
- (B) Permit holders must comply at all times with the requirements of this article and other applicable city ordinances as well as state and federal laws.
- (C) No permit issued under the terms of this article shall ever be transferred, sold, assigned, or otherwise disposed of in any manner to any other person without the written consent of the building inspector.
- (D) No permit shall be issued for less than the required permit fees.
- (E) Bonds must be maintained at all times applicable to the permitted project.
- (F) All applications for permit must contain complete and accurate information, plans and specifications for the project.
- (G) No work shall be done under any permit issued under this article except as stated in the permit and in compliance with state and federal laws. The permittee shall ensure compliance at all times therewith.
- (H) The building inspector shall at all times have authority to inspect the project site and stop all work not in conformity with the permit, ordinances of the city, or state or federal law. A copy of all permits shall be maintained at the construction site and made available for inspection at all times when construction or installation work is occurring. It shall be a violation of this article to interfere with a building inspector in the performance of his or her duties.
- (I) Any changes to the information provided in the application approved by the building inspector must be submitted to the building inspector within 72 hours after the information has changed to amend the permit and, if such changes are of a sufficient degree to cause reconsideration, the building inspector shall have the same authority as in an original application to approve or deny such amendments.

- (J) Approval of a permit does not constitute an agreement to undertake construction activities contrary to state, federal or city requirements.
- (K) No permanent structure shall remain in the rights-of-way or street without all proper permits and a current occupation permit authorizing permanent occupation.
- (9) Revocation of permit. Any permit, including a certificate of occupation, issued under this article may be cancelled if a notice to cease operations or activities thereunder is issued, and such notice is not immediately complied with. Any such noncompliance shall constitute grounds for immediate revocation of any and all permits, or portions thereof, for the project, when the following conditions exist:
 - (A) A violation of any condition of the permit;
 - (B) A violation of any provisions of this article or any other applicable ordinance or law relating to the specifications of the permit, excavations, construction or installation of the type of facility being installed, repaired, altered or removed;
 - (C) Failure to cease construction activities or correct such violations as directed by the building inspector; or
 - (D) The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.
- (10) Appeals from permit revocation or other action. A permit holder, including a person having a certificate of occupation, pursuant to this article, who is aggrieved by a revocation or any other action by the building inspector regarding such permit, may appeal to the city council. The appeal shall be made by filing with the city secretary a written notice thereof within ten (10) calendar days from the date of the revocation of the permit, or other action appealed from, including, but not limited to, notices to repair and stop work orders. A fee as set forth in the fee schedule in appendix A of this code shall be collected for processing the appeal. The aggrieved person shall be given a hearing before the city council, in due order of business, after which the city council may affirm, modify or overrule the inspector's decision. Written notice of the time and place of such hearing shall be served upon the permit holder at least five (5) days prior to the date set for such hearing. Notice of the hearing may be given by personal delivery thereof to the permit holder or by deposit in the United States mail in a sealed envelope with postage prepaid, addressed to such person at the address appearing in the application or notice of appeal. All work shall be stopped at the construction site while the appeal is pending.
- (11) Franchise holders. Utility service providers and public service providers having a current franchise or license agreement with the city shall be governed by the terms of the franchise or license agreement and shall not be required to: obtain an additional certificate of occupation or permit; post additional bond or insurance; and shall be exempt from paying any permit fees when required hereby to obtain a permit; but shall otherwise be subject to, bound and governed by each and every term and provision of this article except as explicitly exempted in the franchise or license agreement. Where the terms and conditions of the franchise or license agreement conflict with the provisions of this article, the terms and conditions of the franchise or license agreement shall govern. Unless otherwise exempted by a current franchise, license agreement or state law, the utility service provider or public service provider shall:

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- (A) Complete all applications for permits required herein but shall not be required to pay the fees;
 - (B) Provide the city the information required in the application;
 - (C) Coordinate with the city as directed by the building inspector based upon the size of the project and construction activities;
 - (D) Apply for all permits not less than five (5) working days prior to commencing any activity for which a permit must be issued as required by this article, and provide an estimation of time for completion of each project.
- (12) Exception to certain fees. Telecommunication entities that are certificated telecommunications providers, certificated by the State of Texas to service the city, and that pay the city compensation as required by chapter 283, Texas Local Government Code, shall be exempt from such fees as are set forth therein upon verification from the public utilities commission that the telecommunications entity seeking a permit is, at the time of application, a certificated provider holding a current certificate of convenience and necessity to service the city, and is paying the city compensation as required by chapter 283. The telecommunications entity shall be subject to all other provisions of this article for which the entity is not exempt.

(Ordinance 3-13-00, sec. 4, adopted 3/13/2000; Ordinance adopting Code)

§ 10.04.004. Bond and liability.

A person considering any construction activity, installation of facilities, excavation, cutting, boring, digging or demolition activity in, over, under, through, along or across the streets or rights-of-way within the city, and who is not under a written contract, franchise, license or other express written agreement with the city, shall post a bond, make a cash deposit with the city, or provide other suitable forms of financial security as determined by the building inspector in an amount that approximates the projected costs of inspection, observation, labor, equipment, materials, and overhead associated with the permit work, and the restoration, reconstruction and repair of the cut, work or excavation in compliance with the standards and requirements set forth in exhibit "A" attached to Ordinance 3-13-00 and incorporated herein for all purposes. Such security shall be posted prior to the issuance of a permit and the start of construction.

- (1) Bond required. A good and sufficient bond shall be filed with the application for the permit required by this article, executed by a bonding company, which bond shall be approved by the building inspector as to form and sufficiency and shall be in the sum of not less than two thousand dollars (\$2,000.00). The bond shall be conditioned, among other things, that the contractor shall faithfully, at his or her own expense, furnish all proper materials, tools and appliances, and perform, execute, construct and complete all such work undertaken by such contractor, and observe and comply with the specifications, requirements and provisions of this article. The bond shall be and remain in effect at all times in which the excavation or construction activities are commenced or in progress.
- (2) Maintenance provisions in bond.

- (A) Every permittee issued a permit under this article shall be bound and obligated to construct all work, and use such materials in the construction thereof, so that the same shall be in as good or better condition than prior to the work, and will remain in such a good or better condition for and during a period of not less than one (1) year from and after the date of completion of the work, free from all cracks, breaks, disintegration, undue wear, scaling or departures from true line or grade, or other defects which might impair the permanence or usefulness of the work or construction activity or surrounding facilities, streets or rights-of-way; however, such cracks as may appear in expansion joints, or cuts between blocks, shall not be deemed to be defects unless in the opinion of the building inspector such cracks are excessive in opening or deflecting of surface.
- (B) Each such bond issued pursuant to this article shall continue in effect for and during the maintenance period of one (1) year following the completion of the work, construction activity or repair.
- (C) Each bond issuer shall promptly adjust, pay and settle all legitimate claims for damages or injuries that may result by reason of carelessness or negligence in the manner of performing the work, construction activity or excavation, or by reason of any defects therein caused or arising from careless, negligent or imperfect construction or repair thereof.
- (D) Each permittee and bond issuer shall hold the city free and harmless from liability on all claims for damages that are based upon, that arise from, or that are related to the work or construction, or the condition thereof, during the maintenance period, or that arise by reason of carelessness or negligence of the permittee, owner, or contractor, in the manner of performing such work, construction activity or excavation, or by reason of any defects therein caused or arising from careless, negligent or imperfect construction or repair thereof, or otherwise by reason of the work or construction.
- (3) Withdrawal of surety on bond. On written notice to the building inspector and the contractor, any surety on a bond issued pursuant to this article may withdraw from all liability thereon on account of any and all future work undertaken by the contractor and for which excavation or construction activity was not begun before the delivery of the notice. After receipt of such, the contractor shall not begin any new work unless and until the contractor shall provide and procure the approval of a new bond in the same manner as required for the first bond. No bond or surety may be withdrawn after the permitted work is commenced.
- (4) Emergency conditions. In the event emergency conditions warrant immediate response by an affected person, the building inspector may waive and/or modify normal standard procedures outlined herein to promulgate standards or requirements to expeditiously address the resolution of the emergency conditions; provided that, in any such event, the contractor shall obtain a permit for such work on the first business day of the city following performance of the work.
- (5) Decision binding on contractor and sureties. The decision of the building inspector shall be binding and conclusive on the contractor and the sureties on all such bonds as to when any work or construction was actually commenced.

- (6) Liability of contractor and sureties for defective work. A contractor whose work, construction activities or excavations are completed, or caused to be completed, by the city shall, on completion of such work and receipt of a certified bill of the cost thereof approved by the city administrator, pay to the city, on its order, the cost of the work. The sureties on the contractor's bond shall be liable for all items and amounts listed in the certified bill of costs submitted to the contractor by the city. In the event the contractor, or the surety on any bond, shall fail and refuse to timely pay any such certified bill to the city, the contractor and such surety shall be and become liable to the city for its attorney fees and costs of collection.
- (7) Liability of contractor and sureties for maintenance and repair work. If any defect in the work or construction develops during the one (1) year guaranty period established by this article, which, in the opinion of the building inspector, is due in any measure to defects of workmanship or material, the contractor shall remedy, repair and reconstruct such work, and/or any part thereof, as may be required by the building inspector, and such work shall be known as maintenance and repair work, and the surety on the contractor's bond shall be fully liable for any default of such contractor under this section.

(Ordinance 3-13-00, sec. 5, adopted 3/13/2000)

§ 10.04.005. City facilities and lands.

City facilities and lands shall not be altered, obstructed or occupied without the express written permission of the city. Facilities not owned by the city shall not be located closer than ten feet (10') laterally, and shall not be located above or below any city-owned facility located underground, without express written permission from the city. Additionally, no facilities may be located in, over, under, through, along or across any parks, recreational land or other similar city-owned property, which is not a street or street right-of-way, without the express written permission of the city.

(Ordinance 3-13-00, sec. 6, adopted 3/13/2000)

§ 10.04.006. Duties and responsibilities.

The contractor and the owner, and any other person to whom a permit is issued, shall, during the period for which the permit is issued, and as provided in section 10.04.004, have all of the duties and responsibilities identified in this article, other applicable ordinances of the city, and as provided for in state and federal law. The owner, and its agents, assigns, contractors and subcontractors installing the facilities, shall continually have the duties identified in this article for so long as facilities or property, under the control of any such owners, and any subsequent owners thereof, are located in the rights-of-way or streets, to perform pursuant to the terms of this article.

- (1) Duty to barricade and protect. The owner and the contractor, and every person to whom a permit is issued under this article, shall have a duty to ensure that each contractor, subcontractor, employee, agent or assignee:
- (A) Prosecutes such work diligently and in a good and workmanlike manner; and

- (B) Safeguards and protects the public upon or using the street, right-of-way, or other place where the work is being performed from accidents, injury or damage by placing barriers, lights and other sufficient safeguards, including a watchman, if necessary, around all cuts, openings, excavations, the installation site and materials, implements and tools used in connection with the construction activity, and shall conform to the provisions of this article and all requirements of the building inspector during the prosecution and completion of such work. All barricades and barriers shall be erected and maintained in compliance with accepted industry practices and applicable safety standards. The owner and the contractor shall be responsible for the costs and expenses of all such barricades, barriers and watchmen.
- (2) Supervision of work. It shall be the duty of the owner, the contractor, and the supervisor of the work site, who shall cause to be made any hole, cut, trench, excavation, mound, embankment, installation or other obstruction in any street or right-of-way, to carefully guard or cause to be guarded such hole, trench, excavation, mound, embankment, installation or other obstruction while the same may exist and not to suffer the same to remain beyond a time reasonably sufficient for the completion of the construction or removal of the obstruction, and to repair the portion of such street or right-of-way or any facility or property affected thereby so as to restore the same to as good or better condition than existed just previous to such activity.
- (3) Duty to promptly repair. It shall be the duty of the owner, the contractor and the supervisor of the work site, on whose behalf the hole, trench, mound, excavation, construction activity, installation or other obstruction or intrusion shall be made, or has been made, in the streets or rights-of-way of the city, to protect the same while such condition exists and to promptly repair the same so as to leave the street or right-of-way in as good or better condition than as before the work. All facilities, streets, sidewalks or other structures or property damaged, altered or injured, in any fashion, shall be restored with similar material and workmanship to that existing before the same was damaged, altered or injured through any actions of the owner, contractor or person employed in any fashion thereby. All work shall be done to the satisfaction of the building inspector whose duty it shall be to inspect the same after it has been done.
- (4) Removal and reconstruction where work defective. All construction activities undertaken in the streets and rights-of-way of the city are declared to be wholly subject to the exclusive control of the city, and whenever, in the opinion of the building inspector, any such work shall not have been duly completed within a reasonable time or shall have been executed in a defective manner, whether because of bad workmanship or material or because not true to lines or grades or specifications required therefor, then upon written demand or notice from the building inspector, such contractor or the owner shall promptly remedy, complete or remove and reconstruct such incomplete or defective construction all as the building inspector may require, and these provisions shall also comprehend and apply to all repairs, installations and maintenance activities. If the contractor or owner shall fail or refuse so to do within a reasonable time as specified in writing by the building inspector, then, if the building inspector shall so order, such work may, at the expense of the owner and contractor, be completed, corrected or removed and wholly or partially reconstructed by the city, or at its instance, in such manner as in the opinion of the building inspector may be necessary to make such work as good as originally required, and such work may be

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done by contract or otherwise, under the provisions of this article and the direction of the building inspector.

- (5) Excavations. All excavations in the streets and rights-of-way are declared to be wholly subject to the rules, regulations, directions and control of the city, and whenever, in the opinion of the building inspector, any such work shall not be in compliance herewith, the permit, and exhibit “A” attached to Ordinance 3-13-00, then upon written demand or notice from the building inspector, such owner and contractor shall promptly remedy, complete or fill the excavation all as the building inspector may require. All excavations made into any street or right-of-way shall be repaired to as good or better condition than such street, right-of-way or other property was in prior to such excavation. Any excavation located in or over the rights-of-way or streets within the city shall and does constitute a nuisance when maintained or permitted to exist by any person in an unwholesome or nauseous condition, or in a manner by which stagnant water accumulates, or in a manner in which water collects where it is possible and probable stagnant water accumulates, or in a manner in which water collects where it is possible and probable mosquitoes will breed, or in a condition where rats could harbor, or in a manner and condition constituting a breeding place for flies, or in a manner and condition where filth, garbage, trash, debris or other discarded material accumulates and is deposited, or is maintained or permitted to exist in an unfenced, open condition, accessible to children or other members of the public, or is maintained and worked in such a manner as to disturb, effect or destroy the lateral support of or block or otherwise impede traffic on any street, alley, road or right-of-way, or that is maintained or permitted to exist in any condition which constitutes a possible and probable medium of transmission of disease to or between human beings, or to be maintained or permitted to exist any one or more of the above-enumerated conditions.
- (6) Relocation of facilities. All persons placing facilities in the right-of-way or streets or owning, operating or maintaining facilities in, over, under, through, along and across the rights-of-way or streets of the city shall be responsible for the relocation and costs of relocation of such facilities when the public health, safety or a public purpose requires relocation, or when such facilities are located therein without a permanent occupation permit, license or franchise as appropriate for the occupation.
- (A) Permanent relocation. Upon thirty (30) days’ written notice by the city, the owner of a facility shall, at the owner’s expense, begin relocation of its facilities that are within a right-of-way or street, when deemed necessary by the city for the public health or safety, or for any public purpose, or to permit the widening, straightening or improvement of a street, drainage, water or sewer project, or any other public works project. The notice by the city may specify the new location for the owner’s facilities along the rights-of-way or streets. The city shall have the right to move any facilities within the rights-of-way or streets to cure or otherwise address a public health or safety concern, to accomplish a public purpose, or to widen, straighten or improve a street, water or sewer projects or other public works projects, or when no permit for occupation has been granted and the owner refuses to move the facilities. The owner shall pay the costs and expenses of moving the facilities.
- (B) Temporary relocation. Upon thirty (30) days’ written notice by the city, the owner of a facility shall temporarily relocate any portion of its facilities within

the rights-of-way or streets at the owner's own expense when deemed essential by the city for the public's health and safety or to permit construction activities of the city, or water or sewer projects or any other public works project. The notice by the city shall specify the affected areas where the facilities are located and the area for temporary relocation of the owner's facilities along the rights-of-way or streets. The city shall have the right to move any facilities within the rights-of-way or streets to cure or otherwise address a public health or safety concern, to widen or straighten streets, water or sewer projects or other public works projects or construction activities where the owner refuses to move the facilities. The city shall assess the reasonable costs and expenses of moving the facilities against the owner.

- (C) Temporary removal of aerial wires. The owner of aerial wires, on the request of any person, shall remove or raise or lower aerial wires within the city temporarily to permit the moving of houses or other bulky structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the benefited party or parties, and the owner of the wires may require such payment in advance. The owner shall be given not less than five (5) business days' advance notice to arrange for such temporary wire changes.
- (7) Traffic interference. The owner and contractor shall endeavor to minimize disruptions to the efficient use of the rights-of-way and streets by pedestrians and vehicular traffic, and the rights-of-way and streets shall not be blocked for a longer period than shall be reasonably necessary to execute all construction, maintenance and/or repair work. Prior to blocking any street or right-of-way the owner and/or contractor shall obtain a permit as required herein.
- (8) Maintenance of facilities. The owner of any facility and person holding a certificate of occupancy, license or franchise shall be responsible for ensuring the continued maintenance, repair, and removal of any nuisances and other such upgrades or repairs to maintain such facility in a safe and good workmanlike condition. Any vegetative growth interfering with such facilities that is determined by the building inspector to be a nuisance shall be removed, cut or cleared at the sole cost and expense of the owner of the facility or holder of the certificate of occupancy, license or franchise. Circumstances and conditions that impose a threat to the public health, safety or welfare shall be promptly remedied by the owner, and a known emergency condition that exists and is determined to require immediate attention so as not to reasonably allow for notice under this section may be immediately abated by the city, and notice of the abatement and costs for the expenses incurred will be forwarded to the owner or holder of the certificate of occupation, franchise or license for reimbursement to the city as required in section 10.04.008.
- (9) Tree trimming. The owner of facilities located within the rights-of-way or streets shall not trim any trees upon or overhanging the rights-of-way without first obtaining a permit as provided herein. All activities and costs necessary to protect and preserve the facilities from damage due to trees shall be the responsibility of the owner of such facilities.
- (10) Violations; notice; failure to abate.

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- (A) In the event the building inspector shall determine that a situation exists which is an immediate threat to the health, safety and well-being of the general public and that immediate action is necessary, said building inspector may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner or contractor committing such violation.
- (B) In the event the building inspector determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or contractor is absent or fails to immediately remedy the situation, the city administrator may, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare, including ordering repair or abatement of the nuisance. In such event, the city may also prosecute an action in any court of competent jurisdiction to recover its costs.
- (C) In the event any owner or contractor shall fail or refuse to remedy any of the conditions or violations indicated by the building inspector within ten (10) days after notice is sent, or immediately if determined by the city to be an emergency and the owner or contractor is absent or fails to immediately respond, the city may do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made to the owners of the facility, or the contractor performing construction activities, whereupon such charge shall be a personal liability of the owner and/or the contractor to the city.
- (D) Notices served upon an owner or contractor may be verbal, or may be served on such owner or contractor by an officer or employee of the city delivering a written notice to an employee or officer of such owner or contractor at their respective place of business, or may be by letter addressed to such owner or contractor at their post office address, or if personal service may not be had, or the owner and contractor's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city, by posting a notice on or near the site or location of each facility or property upon which the violation relates, or by posting notice on a placard attached to a stake driven into the ground on the property or facility to which the violation relates and addressed "Facility Improvements", "To Whom It May Concern", and such publication shall be deemed sufficient notice.
- (E) In the event any owner or contractor is mailed a notice in accordance with subsection (D) 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.
- (F) Notices provided by mail or by posting as set forth above may provide for year-round abatement of the nuisance and inform the owner that, should the owner commit any other violation of the same kind that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may abate the violation at the owner's expense and assess the costs against the property.
- (G) Appeals from a decision of the building inspector identifying a violation or nuisance shall be filed in writing with the city secretary within five (5) days after

the notice to abate a nuisance or notice of a violation of this article is given. The procedures for appeal shall otherwise be the same as required in section 10.04.003(7) herein.

- (11) Emergencies. In the case of fire, disaster, or other emergency threatening life or property, as determined by the city, the city may remove or repair only the part of the facility required to be removed or repaired to remove such threat; provided, however, the city shall first use its reasonable efforts to immediately notify the owner of such threat and allow the owner to remove or repair the part of the facility required to be removed or repaired to remove such threat. In such event, neither the city, nor any agent, contractor or employee thereof, shall be liable to the owner or its customers or third parties for any damages caused them or the facility, such as for, or in connection with, protecting, breaking through, moving, removal, altering, tearing down, or relocating any part of the facility.

(Ordinance 3-13-00, sec. 7, adopted 3/13/2000)

§ 10.04.007. Right to inspect; correction of violations.

For the purposes of administering and enforcing this article, the building inspector and authorized law enforcement entities (herein “inspecting official”) shall have the right to enter into and upon any lands within the city limits, in or upon which excavation, installation, repairs or any other construction activities exist or on any lands on which operations are being conducted in creating an excavation, repair or installation, to examine and inspect such lands and excavations, repairs or installations, to determine whether such operations are in violation of this article and to further determine whether all permits have been secured as required.

- (1) Cessation of operations/stop work order. If the inspection provided for above reveals that the excavation, installation, repair or construction activity is being operated or maintained in violation of the permit issued, including a certificate of occupation, the inspecting official may immediately give notice in writing to the person in charge at the site, or the owner thereof, to stop all work or construction activities, setting forth therein the reason for the issuance of the stop work order. If no such person is available, the leaving of such a written notice, on the equipment located at the site or upon a stake at the entry of the site where the excavation, installation, repair or construction activity is occurring, shall be deemed compliance with this section.
- (2) Time limitation for correction. After issuance of the notice as provided for above, there shall be no further operation of the excavation, installation, repair or any other construction activity until the violations complained of by the inspecting official have been remedied. Except that the violation shall constitute an immediate threat to the public health or safety, the owner and contractor shall have three (3) days from the date of receipt of the complaint notice from the inspecting official to remedy the violations complained of and to request the inspection by the inspector to verify that the violations complained of have been remedied and that the construction activity is ready for additional inspection.
- (3) Failure to remedy violation. In the event a contractor or owner fails to remedy the violation complained of, the building inspector shall notify the city administrator of the

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violations discovered and request that the city council hold a hearing to consider revocation of the contractor's and owner's permit as provided in this article. A continuation of work or operation of the construction activity, other than to remedy the violation complained of, after written notice has been received by the contractor or owner to cease the construction activity shall constitute a violation of this article.

- (4) Right to repair or correct. The city may immediately repair any site or location within the streets or rights-of-way at the contractor's and owner's expense where there exists: a known condition which constitutes a nuisance; a dangerous or hazardous condition; an eminent threat to the public health, safety or welfare; or when the contractor or owner is performing construction activities, excavations, installations or repairs without the appropriate permit; or when the contractor or owner is performing construction activities, excavations, installations or repairs contrary to the terms of this article, other applicable ordinances, state or federal law and refuses to correct such situation immediately upon direction from the building inspector.

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

§ 10.04.008. Costs of repair or correction.

The reasonable costs and expenses for repairing, re-constructing or correction of any construction activity, excavation, addition, removal or alteration of a facility or any other alteration thereof to any street, right-of-way, or facilities located thereon, within the city, without a permit or express written contract or written agreement with the city, shall be charged against the persons, corporation, company, or entity actually responsible for the actions; the owner(s) responsible for the work or for whose benefit such activity was undertaken which caused the damage to the street or right-of-way; and/or the permittee in whose name the permit to perform such activities was issued.

(Ordinance 3-13-00, sec. 9, adopted 3/13/2000)

§ 10.04.009. City's rights reserved.

Nothing in this article grants permission for the occupation, obstruction, excavation, repair or alteration of any street or right-of-way of the city, and any such use shall be subject to consent of the city at its sole discretion. Additionally, nothing in this article shall be construed as an assumption by the city, its officers and employees of any responsibility to supervise construction activities, ensure adequate safety precautions by contractors or to protect any owners or customers of any facilities located in, over, under, through, along or across the rights-of-way or streets, or the owners of any property abutting, adjacent or within the rights-of-way or streets, from any damages caused to the facilities located therein or as the result of the construction activities thereto. Further, the city reserves the right to vacate any street or right-of-way at its sole discretion. If the city vacates or otherwise abandons a right-of-way or street or any portion thereof, the city, with or without notice to any permittee, may cancel any permits for such portion of a right-of-way or street without compensation or reimbursement to the permittee for any expenses associated with moving any facilities located therein, unless otherwise agreed in writing. The owner and, as applicable, the contractor shall be solely liable and responsible for any and all injuries and/or damages

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arising or resulting from any excavation, boring, trench, work or occupation of any street or right-of-way by or on behalf of such owner or contractor.

(Ordinance 3-13-00, sec. 10, adopted 3/13/2000)

§ 10.04.010. Enforcement.

- (a) The civil and criminal provisions of this article shall be enforced by those persons or agencies designated by municipal authority and may be enforced by any law enforcement agent of the city.
- (b) If applicable, default and revocation of any and all permits granted to allow construction activities in the streets or rights-of-way subject to the procedural guidelines herein, and any agreement which applies to the right-of-way user, may be permanently enforced subject to any limitations imposed by federal or state law.
- (c) In imposing the penalties and the amount, the city may weigh all applicable factors, such as damages caused by the violation, reasons for the violation, the seriousness of the violation, and all other factors. The minimum fee and penalty that shall be payable by any utility service, public service provider, owner or person that shall be found to have been occupying a street or right-of-way, in violation of this article, shall be double the amount of \$1.00 per lineal foot of such occupancy for each year of such prior unauthorized occupancy.
- (d) Monetary civil penalties and injunctive relief may be imposed in the manner prescribed by either local or state law.
- (e) The city council may order specific performance of any actions required by this article or required by a franchise, license or permit or any other agreement or authorization.

(Ordinance 3-13-00, sec. 11, adopted 3/13/2000)

§ 10.04.011. Penalty.

Any person who shall violate any provision of this article, or shall fail to comply therewith, or with any of the requirements thereof, shall be deemed guilty of a misdemeanor and shall be liable for a fine not to exceed the sum of five hundred dollars (\$500.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(Ordinance 3-13-00, sec. 12, adopted 3/13/2000)

§ 10.04.012. Court proceedings.

Upon the request of the city council, the city attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this article, to obtain declaratory judgment, and to seek and recover court costs, attorney fees, and/or damages, including but not limited to damages or costs incurred by the city to undertake any construction, repair, alteration or other activity necessary to bring about compliance with a

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requirement regarding the streets or rights-of-way and established pursuant to this article and other applicable ordinances of the city.

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

§ 10.04.013. Indemnity.

Owners and contractors shall indemnify, defend, and hold the city and its officers, employees and agents harmless from and against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought that is found by a court of competent jurisdiction to be caused by the negligent act, error, or omission of any agent, officer, director, representative, employee, affiliate, or subcontractor of the owner, contractor or permittee installing, repairing, or maintaining facilities in the rights-of-way or streets.

(Ordinance 3-13-00, sec. 14, adopted 3/13/2000)

§ 10.04.014. Governmental immunity.

Nothing in this article shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the city or its officers, employees and agents, nor to create any legal rights or claims on behalf of any third party. This article is solely for the benefit of the city, and the city in its representative capacity of the general public, and does not create or grant rights, contractual or otherwise, to any other person, entity or member of the general public. Neither the city, nor its officers, employees and agents, waives, modifies or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

(Ordinance 3-13-00, sec. 15, adopted 3/13/2000)

Chapter 11
TRAFFIC AND VEHICLES

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ARTICLE 11.01
GENERAL PROVISIONS

- § 11.01.001. Ordinances saved from repeal.

All ordinances authorizing the placement of traffic-control devices, including stop signs, yield signs, and other traffic-control signals and markings; the designation of speed zones, no-passing zones, no-parking zones, one-way streets, and through streets; and other ordinances regulating traffic on specific streets or parts of streets in the city are not included in this code but are specifically saved from repeal upon adoption of this code. Such ordinances are on file in the city secretary's office.

(Ordinance adopting Code)

§ 11.01.002. Speed of trains.

- (a) All railroad trains or railroad engines are hereby prohibited from running at a speed greater than six (6) miles an your through the incorporated limits of the town.
- (b) Any person or persons violating this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) for each and every offense.

(Ordinance 17-TRA-X adopted 8/18/1921)

§ 11.01.003. Muffler required.

- (a) It shall be mandatory for any motor-driven vehicle to be equipped with a muffler that is in operative condition.
- (b) It shall be unlawful for any person to operate a motor-driven vehicle without a muffler or with a muffler that is not in operative condition.

(Ordinance 17-TRA-S adopted 6/1/1971)

**ARTICLE 11.02
TRAFFIC-CONTROL DEVICES**

Division 1

Generally

§ 11.02.001. Conformance with state manual.

All traffic-control devices including signs, signals and markings installed or used for the purpose of directing and controlling traffic within the city shall conform with the Texas Manual on Uniform Traffic Control Devices for Streets and Highways, Volumes I and II (hereafter called the "manual"). Article 6701d, Vernon's Civil Statutes, states: All signs, signals and markings erected or used by the city shall be uniform and be located so far as practicable according to the directions shown in the manual throughout the city. All existing traffic-control devices and those erected in the future by the city being consistent with the manual, state law and this article shall be official traffic-control devices.

(Ordinance 17-TRA-R, sec. 1, adopted 8/9/1977)

§ 11.02.002. Obedience.

The driver of any vehicle, motor vehicle or animal shall obey the instructions of any official traffic-control device, sign, signal or marking applicable thereto placed in accordance with this article, unless otherwise directed by a police officer, subject to the exceptions granted to a driver of an authorized emergency vehicle permitted by this article.

(Ordinance 17-TRA-R, sec. 2, adopted 8/9/1977)

§ 11.02.003. Exceptions for authorized emergency vehicles.

- (a) The driver of an authorized emergency vehicle, as the term “authorized emergency vehicle” is defined by state law, 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 upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.
- (b) The driver of an authorized emergency vehicle may:
 - (1) Park or stand, irrespective of the provisions of this article or any ordinance;
 - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - (3) Exceed the prima facie speed limits so long as he does not endanger life or property;
 - (4) Disregard regulations governing direction of movement or turning in specified directions.
- (c) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of section 124 V.C.S. 6701d (Uniform Act Regulating Traffic on Highways), except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from the front of the vehicle.
- (d) The foregoing provisions 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.
- (e) Provisions of this article applicable to drivers upon the highways shall apply to the drivers of all vehicles owned and operated by the United States, the State of Texas, or any county, city, town, district or any other political subdivision of the state, subject to such specific exceptions as are set forth in this article with reference to authorized emergency vehicles.

(Ordinance 17-TRA-R, sec. 3, adopted 8/9/1977)

§ 11.02.004. Unauthorized devices.

- (a) No person shall place, maintain, or display upon or in view of any highway, street or alley any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official control device or any railroad sign or signal.
- (b) No person shall place or maintain nor shall any public authority permit upon any highway, street or alley any traffic sign or signal bearing thereon any commercial advertising.

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- (c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways, streets or alleys of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- (d) 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 notice.

(Ordinance 17-TRA-R, sec. 4, adopted 8/9/1977)

§ 11.02.005. Damaging, altering or removing.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device, sign or signal or any railroad sign or signal or any inscription, shield, or insignia thereon, or any part thereof.

(Ordinance 17-TRA-R, sec. 5, adopted 8/9/1977)

§ 11.02.006. Installation; records.

- (a) The city council shall by this article direct that the director of public works shall have the duty of erecting or installing upon, over, along, or beside any highway, street or alley signs, signals and markings, or causing the same to be erected, installed or placed, in accordance within this article and consistent with the manual. Said traffic-control devices shall be installed immediately, or as soon as such specific device, sign or signal can be procured.
- (b) Whenever the director has erected and installed any official traffic-control device, signal or sign at any location in the city, or has caused the same to be done under his direction, in obedience to this article and the manual, he shall thereafter file a report with the city secretary in writing and signed officially by the director of public works, stating the type of traffic-control device, sign or signal, and when and where the same was erected and installed. The city secretary shall file and maintain such reports of the director among the official papers of the office of the city secretary.

(Ordinance 17-TRA-R, sec. 6, adopted 8/9/1977)

§ 11.02.007. Evidence of validity.

It being unlawful for any person other than the director, acting pursuant to an ordinance or resolution of the city, to install or cause to be installed any signal, sign, or device purporting to direct the use of the streets or the activities on those streets of pedestrians, vehicles, motor vehicles, or animals, proof, in any prosecution for a violation of this article, or any traffic ordinance of the city, that any traffic-control device, sign, signal, or marking was actually in place on any street shall constitute prima facie evidence that the same was installed by the director pursuant to the authority of this article and of the ordinance directing the installation of such device, signal or marking.

(Ordinance 17-TRA-R, sec. 7, adopted 8/9/1977)

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§ 11.02.008. Penalty.

Any person convicted of violating any of the provisions of this article shall be punished by a fine of not less than one dollar (\$1.00) nor more than two hundred dollars (\$200.00).

(Ordinance 17-TRA-R, sec. 8, adopted 8/9/1977)

§ 11.02.009. through § 11.02.030. (Reserved)

Division 2

Public Services Board**§ 11.02.031. Established; functions.**

- (a) There shall be established a public services board consisting of the mayor, utilities superintendent, and chief of police.
- (b) The public services board, subject to the approval of the city council, shall place and maintain traffic-control signs, signals and devices when and as required in this section to make effective the provisions of this section and may place and maintain such additional traffic-control devices as they deem necessary to regulate traffic in accordance with city ordinances and state law, or to guide or to warn traffic.
- (c) All traffic-control signs, signals and devices shall conform to the Manual on Uniform Traffic Control Devices and specifications approved by the ==state highway commission [department of transportation] and resolutions adopted by the city council.
- (d) All traffic-control devices erected within the city and not inconsistent with the provisions of state law shall be official traffic-control devices.
- (e) All traffic-control signs, signals, devices and markings placed or erected prior to the adoption of this section and in use for the purpose of regulating, warning or guiding traffic are hereby affirmed, ratified and declared to be official traffic-control devices, provided such traffic-control devices are not inconsistent with the state law.

(Ordinance 17-TRA-Q adopted 11/9/1992)

**ARTICLE 11.03
PARKING**

§ 11.03.001. Parking on Highway No. 95.

- (a) Purpose. It has been determined that certain restrictions are needed to regulate the parking of motor vehicles on State Highway No. 95 within the corporate limits of the city, for the purpose of securing proper sight distances, insuring traffic safety and preserving the utility of the street and highway, said certain restrictions to be in accordance with the Texas Manual on Uniform Traffic Control Devices for Streets and Highways, 1967, issued under authority of the state Uniform Act Regulating Traffic on Highways, codified as article 6701d Vernon's Revised Civil Statutes.

- (b) Stopping, standing or parking prohibited in specified 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 places:
- (1) In front of a public or private driveway;
 - (2) Within an intersection;
 - (3) Within fifteen (15) feet of a fire hydrant;
 - (4) Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway;
 - (5) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - (6) At any place where official signs prohibit stopping;
 - (7) Alongside curbs marked with a solid yellow color covering the face and top of the curb.
- (c) Penalty. Any person violating the provisions of this section shall upon conviction be fined in any sum not exceeding two hundred dollars (\$200.00).

(Ordinance 17-TRA-U adopted 5/10/1971)

§ 11.03.002. Parking of large vehicles; parking on shoulder.

- (a) The city council has determined that a “no parking” zone should be established to include but not be limited to the following:
- (1) No parking in residential streets, avenues or boulevards, within the city limits, of any vehicle or combination of vehicles with a gross weight that exceeds 26,001 pounds;
 - (2) Parking on the shoulder of any street, avenue or boulevard, within the city limits, where a shoulder exists is not considered a violation of this section unless the gross weight exceeds 26,001 pounds;
 - (3) Any vehicle that inhibits the flow of traffic will be in violation of this section.
- (b) A “no parking” zone is hereby established to include but not be limited to any street, avenue, or boulevard within the city limits as stated above.
- (c) Service vehicles, repair trucks, moving vans, and other vehicles that are providing service to property owners at the above-listed locations shall be exempted from the no parking zone, providing that the driver of the vehicle remains in the immediate area of the vehicle.
- (d) Any person violating any provision of this section shall upon conviction be fined in any sum not exceeding two hundred dollars (\$200.00).

(Ordinance 17-TRA-P adopted 4/23/1992)

ARTICLE 11.04
GOLF CARTS AND UTILITY VEHICLES

§ 11.04.001. Definitions.

Daytime hours, as used herein, is that time between 1/2 hour before sunrise and 1/2 hour after sunset.

Golf carts and utility vehicles, as used in this article, means a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course and road easements.

(Ordinance 091613, sec. 2(I), adopted 9/16/2013; Ordinance 01132014, sec. 2(I), adopted 1/13/2014)

§ 11.04.002. Permissible operation.

Golf carts and utility vehicles may be operated on city streets and roadways during daytime hours where the speed limit does not exceed thirty-five (35) miles per hour, and as permitted under state law.

(Ordinance 091613, sec. 2(II), adopted 9/16/2013; Ordinance 01132014, sec. 2(II), adopted 1/13/2014)

§ 11.04.003. Equipment requirements.

Golf carts and utility vehicles driven on city streets and roadways must be equipped with the following minimum equipment as mandated by V.T.C.A. Transportation Code, ==section 551.404(b):

- (1) Headlamps;
- (2) Taillamps;
- (3) Reflectors;
- (4) Parking brake; and
- (5) Mirrors.

(Ordinance 091613, sec. 2(III), adopted 9/16/2013; Ordinance 01132014, sec. 2(III), adopted 1/13/2014)

§ 11.04.004. Operation regulations; penalty.

- (a) All drivers must be licensed to operate a motor vehicle as provided by state law.
- (b) All drivers of golf carts and utility vehicles shall abide by all traffic regulations applicable to vehicular traffic when using the authorized streets and parking areas of the city.

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- (c) The authorized driver of a golf cart and utility vehicle operating the cart on a permitted street may cross an excluded street but otherwise may not operate a golf cart and utility vehicle on any excluded street.
- (d) Any person who violates the terms of this article shall, in addition to any traffic violations for which the owner or driver of the golf cart and utility vehicle may be subject pursuant to state law or city ordinance, be guilty of a misdemeanor offense punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ordinance 091613, sec. 2(IV), adopted 9/16/2013; Ordinance 01132014, sec. 2(IV), adopted 1/13/2014)

§ 11.04.005. Enforcement.

This article shall be strictly enforced by the city police department.

(Ordinance 091613, sec. 3, adopted 9/16/2013; Ordinance 01132014, sec. 3, adopted 1/13/2014)

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**ARTICLE 12.01
GENERAL PROVISIONS**

§ 12.01.001. Water and wastewater department.

- (a) Established. There is hereby established the water and wastewater department of the city.
- (b) Director, personnel and facilities. The water and wastewater department shall be headed by a director appointed by the city council and the department shall have such personnel as may be authorized in the annual budget of the city. The city council shall be responsible for hiring and termination of all employees of the department. The director shall supervise the employees of the department.
- (c) Duties of director. The director of aviation [director of the water and wastewater department][??] shall, subject to the direction, supervision and oversight of the city manager and within the funds appropriated, budgeted and available for such purposes:
 - (1) Supervise and manage the development, construction, enlargement, improvement and policies of the water and wastewater department, pursuant to plans approved by the city council;
 - (2) Maintain the city’s buildings, grounds and equipment of the water and wastewater system;
 - (3) Provide the day-to-day operations and management of the water and wastewater system;
 - (4) Enforce the rules and regulations adopted by the city council and the state and federal rules and regulations applicable to the water and wastewater system;
 - (5) In consultation with the city council, suspend or restrict any water or wastewater operations whenever he or she believes such action to be necessary and appropriate for the public health, safety and welfare;

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- (6) Facilitate communications and serve as a liaison between the state and federal regulatory agencies and the city council;
- (7) Assure that water is being treated properly and that all health department rules and regulations are followed to the best of his or her ability, including sending in the required number of water samples;
- (8) Keep the pump house and grounds clean and in good shape at all times;
- (9) Supervise the installation, maintenance and reading of water meters to ensure proper functioning and readings;
- (10) Ensure the grounds and equipment of the water and wastewater treatment plant are clean and in good working order, keeping a supply of all necessary chemicals kept in stock at all times;
- (11) Ensure that all tests are made and reported to the proper authorities;
- (12) Supervise the installation and maintenance of sewer taps ensuring that wastewater is properly chlorinated;
- (13) Supervise the employees of the water and wastewater department and ensure that all inspection stickers and employees' licenses are kept current, not permit any employee to work when job qualifications are lacking, and remove employees from job sites who are not qualified to perform the work required;
- (14) Responsible for assuring that all facets of the city are run in a businesslike manner with offices kept clean and neat and working such hours as necessary to properly maintain the operations of the water and wastewater system;
- (15) Regularly check with the city secretary to ensure all water is being billed and paid for and to respond to all questions regarding the meter readings;
- (16) Perform other duties and responsibilities as directed by the city council; and
- (17) Keep the city council informed of important changes, activities or other circumstances.

(Ordinance 04-09-01 adopted 4/9/2001)

§ 12.01.002. Jurisdiction over electric utility.

- (a) The governing body of this municipality does hereby elect to have the state public utility commission exercise exclusive original jurisdiction over electric utility rates, operations, and services within the existing and future incorporated limits of this municipality.
- (b) The governing body of this municipality hereby expressly retains the exclusive original jurisdiction over the rates, operations, and services of water and sewer utilities within the existing and future incorporated limits of this municipality.

(Ordinance adopted -/-/1989)

ARTICLE 12.02
RATES, BILLING AND SERVICE POLICIES

Division 1

Generally

§ 12.02.001. Authority.

This article is adopted pursuant to the police powers and authority given general law cities by the constitution, codes and general laws of the State of Texas, including but not limited to chapters 51 and 402 [552], Texas Local Government Code.

(Ordinance 8-313 (ord. 99), art. I, sec. 1, adopted 8/31/1999)

§ 12.02.002. Purpose; applicability.

The purpose of this article is to provide for public health and general welfare, the efficient and effective provision of city services and the protection of the environment and natural resources of the community. From and after the passage of this article all residential, business, commercial and industrial occupancies and uses within the city and its service area shall conform to the following rules and regulations.

(Ordinance 8-313 (ord. 99), art. I, sec. 2, adopted 8/31/1999)

§ 12.02.003. Definitions.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this section; provided that, unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage, and so as to give this article its most reasonable application.

Bulky waste means stoves, refrigerators, water tanks, washing machines, furniture, used and discarded mattresses and other waste materials other than construction debris, dead animals, hazardous waste or stable matter with weights or volumes greater than those allowed for carts.

Bundle means tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding three feet in length and 35 lbs. in weight.

Cart means a plastic wheeled cart designed to store residential refuse.

City's operator means the person, firm, corporation, municipal corporation or political subdivision which the city has designated to operate and maintain the city's water system.

Commercial and industrial unit means any premises, locations or entities, public or private, within the corporate limits of the city, not a residential unit.

Commercial unit means and includes any establishment rendering a service or offering a product for sale to the public.

Connection means the initial or first connection (“tap”) or any subsequent additional connection of a residential or commercial unit to the city’s water system or wastewater system.

Construction debris means waste building materials resulting from construction, remodeling, repair or demolition operations.

Contractor means the person, corporation or partnership performing refuse collection and disposal under contract with the city.

Customer means any person, firm or corporation receiving city garbage, water or wastewater services for a residential unit within the city. The term “customer” shall mean and include the person, firm or corporation occupying a residential unit within the city.

Dead animal means an animal or portion thereof that has expired from any cause.

Garbage means accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers, and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of bulky waste, construction debris, dead animals, hazardous waste, rubbish or stable matter.

Hazardous waste means waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law, or waste, in any amount, which is regulated under federal or state law, including motor oil, gasoline, paint and paint cans.

Master meter means the separate connection through which one commercial unit serves other establishments or entities occupying the same building.

Producer means an occupant of a residential, commercial or industrial unit who generates refuse.

Refuse means residential refuse, bulky waste, construction debris and stable matter generated at a residential unit, unless the context otherwise requires, and commercial and industrial refuse.

Residential refuse means all garbage and rubbish generated by a producer at a residential unit.

Residential unit means a dwelling within the corporate limits or service area of the city intended for occupancy by a person or group of persons comprising not more than one family. A dwelling shall be deemed occupied and shall be deemed by the city to be a separate residential unit for billing and collection purposes when either water or electrical power services are being supplied thereto.

Rubbish means waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, combustible waste, pulp and other products such as are used for packaging or wrapping

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crochery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of bulky waste, construction debris, dead animals, garbage, hazardous waste or stable matter.

Separate connection means the individual metering facilities for each residential or commercial unit for which city services have been requested or provided, whether occupied or not.

Stable matter means manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

(Ordinance 8-313 (ord. 99), art. I, sec. 4, adopted 8/31/1999; Ordinance A52206-1, sec. 3, adopted 5/22/2006)

§ 12.02.004. through § 12.02.030. (Reserved)

Division 2

Water and Wastewater Service

§ 12.02.031. Mandatory connection to city system.

- (a) Except as provided otherwise in this article, no building or structure in an area of the city for which water service or wastewater service is available shall be occupied for residential or commercial purposes unless such building or structure is connected by a separate connection to the city respective water system or wastewater system. “Occupied for commercial purposes” or “occupied commercial unit” shall mean that at least one employee or owner of the business is present at the building or structure for any period of time during the business’s regular operating hours.
- (b) Each residential unit and occupied commercial unit within the city shall be connected by separate connection to the city water system as soon as city water service is available to such unit, unless specifically exempted herein.
- (c) Any unoccupied residential unit or commercial unit within the city for which water service or wastewater service has been provided previously by the city water system or its predecessor shall be connected to the respective city water system or wastewater system by a separate connection prior to occupancy.
- (d) Any two or more residential units that are found to be obtaining water service or wastewater through a single meter shall be required to connect each such unit by a separate connection to the respective city water or wastewater system within 30 days. Such separate connection shall be provided by the city at no cost to the customer.
- (e) Any residential unit within the city being served by a privately owned water well on the effective date of this section shall be connected to the city water system by a separate connection at such time as the well fails to meet permit and ==department of health requirements or other statutes or regulations of the state.
- (f) Any residential unit or occupied commercial unit within the city being served by a septic system on the effective date of this section shall be connected to the city wastewater system by a separate connection at such time as the septic system fails to

meet permit and ==department of health requirements or other statutes or regulations of the state.

- (g) Each residential unit and occupied commercial unit within the city shall be connected by a separate connection to the city wastewater system as soon as city wastewater service is available to such unit, unless specifically exempted herein.
- (h) Any commercial establishments or entities located within a single building and served by a master meter on the effective date of this section may elect to continue to receive water service and/or wastewater service through such master meter.
- (i) From the effective date of this section, no person or commercial establishment shall be permitted to obtain service through a master meter or otherwise provide water service or wastewater service to another person or entity, except as specified in subsection (h) of this section.

(Ordinance 8-313 (ord. 99), art. II, sec. 1, adopted 8/31/1999; Ordinance A52206-1, sec. 4, adopted 5/22/2006)

§ 12.02.032. Application for water and wastewater connections.

Each person desiring water and wastewater service shall be required to complete an application for such service and pay such fees as are established by this article. No service shall be rendered until such fees are paid.

(Ordinance 8-313 (ord. 99), art. II, sec. 2, adopted 8/31/1999; Ordinance A52206-1, sec. 4, adopted 5/22/2006)

§ 12.02.033. Connections and taps to water and wastewater system.

- (a) Certification. Connections shall not be made to either the city water or the wastewater system until the city's operator or other party designated by the city council has certified that the respective system or applicable portion thereof is adequate and operational. Neither water service nor wastewater service shall be provided to any residential or commercial unit not in compliance with rules and regulations promulgated by the ==state department of health, the ==state natural resources and conservation commission, or as set out in the Texas Water Code.
- (b) Service access. Upon application for connection to the water and wastewater system the applicant shall grant an easement of ingress and egress to and from the meter or point of service for such installation, maintenance and repair as the city, in its judgment, may deem necessary. Taps and connections will not be made when, in the opinion of the city's operator, the work area is obstructed by building materials and debris or the work area is not completed to finished grade. When side driveways or other improvements have been constructed prior to application for service, such application shall be construed and accepted as a waiver of a claim for damages to such improvements resulting from the reasonable actions of the city's operator in installation of the customer's connection.
- (c) City property. All meters, fittings, boxes, valves and appurtenances installed by city personnel shall remain the property of the city. City maintenance of the water service

ends at the customer side of the connection to the water meter itself. City maintenance of the wastewater service ends at the tap, or point of connection, of the lateral line into the city wastewater line.

(d) Connection and repair of services.

- (1) The city shall install and maintain all service connections from water mains to the customer's meter within the city and it shall be unlawful for any other person or persons to repair or renew service pipe from the main to the meter.
- (2) It shall be unlawful for any plumber or other person, other than the tapper employed by the city, to tap any street main, make connection with the street main or extend service pipe from the main, said work to be under exclusive control of the city.

(e) Plan approval required.

- (1) Each applicant for a connection shall within ten (10) days prior to payment of tap fees submit to the city operator the following information:
 - (A) One set of drawings showing details of building plumbing, site plumbing and the location, size and number of proposed connections to the city's water system and/or wastewater system; and
 - (B) A general description of the type of proposed establishment.
- (2) The city's operator or other party designated by the city council shall review the information presented and may approve or reject the application, or request that further information be submitted prior to approval of the application. The applicant shall be notified in writing as to the basis for rejection. Failure to construct the facilities in accordance with approved drawings shall constitute a basis for denial of city water services. If the application information is not timely made, the city shall not be held responsible for delays in the installation of any water or wastewater connection. Payment of tap fees to the city prior to the approval of plans shall not constitute approval of said plans or approval for service as set forth herein; any unauthorized connection or connections may be removed at the expense of the person or firm causing such connection or connections to be made.

(Ordinance 8-313 (ord. 99), art. II, sec. 3, adopted 8/31/1999; Ordinance A52206-1, secs. 5, 6, adopted 5/22/2006; Ordinance 03-22-21, sec. 4, adopted 3/22/2021)

§ 12.02.034. Interconnections.

Interconnections or cross-connection of the city's water system, whether directly or through the customer's private system to another source of water or otherwise, is strictly prohibited. Initial customers shall construct, and each customer shall maintain, water connections and appurtenances so as to avoid infiltration of any substance into the city water system. City personnel shall have access to all customer water line connections and appurtenances within reasonable time periods to inspect for suspected unauthorized connections. The city reserves the right to immediately and without notice disconnect water services to any customer whose internal private system has been found to be interconnected or cross-connected, and to assess

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against the customer such penalties as are provided by law and penalties provided herein in addition to any charges necessary to repair the damaged or contaminated portion of the system.

(Ordinance 8-313 (ord. 99), art. II, sec. 4, adopted 8/31/1999)

§ 12.02.035. Metering.

- (a) Required. Meters shall be required to measure the consumption of each utility service furnished by the city, except garbage collection and sewage service.
- (b) Control of meters. All meters, curb cocks, goose necks, valves, and meter boxes connected with the city's water main and service pipe, including those furnished at the expense or consumers or property owners, shall remain under direct control of the city.
- (c) Tampering with meters. It shall be unlawful for any person other than those authorized by the city to connect, disconnect, move, or tamper with any such meter; or to turn on or off the water at the curb cock, valve, or meter; or to open or tamper with any meter box.

(Ordinance 03-22-21, sec. 5, adopted 3/22/2021)

§ 12.02.036. Sewer connections.

- (a) Sewer connections required. All owners or occupants of buildings or agents for owners, situated within one hundred and fifty (150) feet of a sanitary sewer, are hereby required to construct, or cause to be constructed, suitable water closets on their property and to connect the same with the city sanitary sewer system under the direction and supervision of the city.
- (b) Maintenance. It shall be the duty of any owner or occupant of any building connected with the city sanitary system to keep and maintain the connection to the sewer system in perfect condition and free from obstruction.
- (c) Septic tanks, privies, etc. It shall be unlawful for any person to build, construct, dig, maintain or use any dry toilet, surface privy, cesspool or septic tank within the city; provided, however, when connection to the city sanitary sewer system is impossible or impracticable at any time the construction, maintenance and use of a septic tank constructed in conformity to state law and the requirements of Bell County and approved by the health officer may be permitted until such time as connection to the sewer system may be made.

(Ordinance 03-22-21, sec. 5, adopted 3/22/2021)

§ 12.02.037. Maintenance of water system.

The city shall constantly inspect all parts of said water system and maintain them in good condition; and shall keep in good repair at all times for constant service, all pumps, machinery, hydrants and all other waterworks fixtures and property. The city shall at all times endeavor to keep a sufficient supply of water in the tanks: (i) to assure adequate fire

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protection and pressure; (ii) to make taps and connections to mains and repairs; and (iii) to keep said water system in good condition.

(Ordinance 03-22-21, sec. 5, adopted 3/22/2021)

§ 12.02.038. Responsibility for leakage.

All property owners, their agents and/or tenants shall be held responsible as consumers for loss of water due to leakage in pipes or plumbing on the discharge side of the meter or on the property, and if this water is not paid for according to the rates provided herein, when it becomes due, the water shall be cut off by the city and not turned on again until all claims are paid or adjusted to the satisfaction of the city. In the event of any change during this time of payment of billing for past leakage, the landlord and/or property owner shall be held accountable for payment of this billing before service will be extended and water furnished to a second or other tenant.

(Ordinance 03-22-21, sec. 5, adopted 3/22/2021)

§ 12.02.039. Turning water service on or off.

No plumber or any other person shall turn water service on or off from the street stop cock without a written permit being first obtained from the city utility department, except in cases of emergency. In the event of an emergency, the city utility department shall be notified within twelve (12) hours of the water being turned on or off for said purpose.

(Ordinance 03-22-21, sec. 5, adopted 3/22/2021)

§ 12.02.040. City's right of entry.

Every person taking service from the city shall at all reasonable times permit the city, its superintendent or agents to enter any premises and building for examination of pipes, connections and fixtures and to determine how the water is being used. Refusal of the right of entry by any consumer shall result in refusal of a water supply from the city water until such permission is granted.

(Ordinance 03-22-21, sec. 5, adopted 3/22/2021)

§ 12.02.041. through § 12.02.070. (Reserved)

Division 3

Deposits, Rates and Charges for Service

§ 12.02.071. Application for services.

- (a) Written application shall be made to the city upon forms furnished therefor for water, sewer, garbage collection or any other utility service which may be furnished by the city. Such application shall state the name and address of the applicant, the type of utility service desired, the purposes for which the application is made and such other information as the city may request for the purpose of the city in its determination of billing, accounting, and rate classification.

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(b) All applicants are to have water, sewer service, garbage collection or any other utility service which may be furnished by the city, under the applicable fees, deposits, and monthly charges set forth in this article. Exceptions:

- (1) Applicants not occupying the home may request water only (if water usage for any month is over [TEXT MISSING][??] gallons, all services will be added to the billing); or
- (2) Applicants not living in the city limits where these services are not provided.

(Ordinance 8-313 (ord. 99), art. IV, sec. 1, adopted 8/31/1999; Ordinance 03-22-21, sec. 6, adopted 3/22/2021)

§ 12.02.072. Tap fees.

The tap fees set forth in the fee schedule in appendix A of this code shall be collected as applicable from the applicant before the corresponding water or wastewater system tap or connection is made.

(Ordinance 8-313 (ord. 99), art. IV, sec. 2, adopted 8/31/1999; Ordinance adopting Code)

§ 12.02.073. Security deposit; transfer of services.

(a) Deposit required.

- (1) All new and existing customers of the water and/or sewer utilities shall be required to pay and maintain a security deposit in the amount set forth in the fee schedule in appendix A of this code at all times that services are provided in the customer's name.
- (2) All customers requesting utility service shall personally sign the application for services and provide verification of name and current address for billing.
- (3) In the event any utility customer's service is disconnected for late payment, the city will apply the deposit to the deficiency and require full payment of any delinquent utility account, in addition to any reconnection fees and reinstatement of the full security deposit, prior to reinstatement and reconnection of utility services.
- (4) Security deposits shall remain with the city until termination of services.

(b) Application of utility deposits.

- (1) All utility deposits held with the city shall, in addition to securing the payment for utility services received, also secure and may be applied to any other debt or obligation owed the city by the person or entity having made the utility deposit. The remaining balance of any and all utility deposits collected by the city for water, sewer or trash disposal shall be returned to the individual who secured the deposit in his or her name, at such time as such person terminates their utility service with the city. The deposit will first be applied to any outstanding utility or trash disposal bills, then to any additional outstanding debts to the city, and the remainder will be returned upon proper request and application. Additional

outstanding debts of the individual seeking return of a utility deposit include but are not limited to:

- (A) Other utility services which have been provided under said person's name and that have an outstanding balance due and owing to the city;
 - (B) Liens placed by the city upon any property owned by such person; and
 - (C) Any outstanding fees, charges, court costs, fines or warrants payable by such person by virtue of any record, action or proceeding in the municipal court.
- (2) No interest shall accrue or be due for any security deposits for water, sewer or trash disposal.
 - (3) A charge and fee in the amount set forth in the fee schedule in appendix A of this code, not to exceed the balance of the unclaimed utility deposit, is hereby established for each account that is required to be maintained by the city for and with respect to services, accounts and service addresses for which a customer abandoned or terminated utility service without contacting the city and closing such account or terminating service, or otherwise providing the city with a forwarding address to which the balance of such utility deposit should be mailed. Upon any such customer entitled to receive a refund of any such utility deposit balance contacting the city and obtaining the refund, or the depletion of such remaining deposit balance, the account shall be closed.
 - (4) Whenever the utility department applies a deposit to any outstanding debt or refuses to return a deposit, the individual seeking return of a deposit held in their name may, if not satisfied with the decision of the director of the utility department, appeal the decision to the city council within ten (10) days from the date of the decision.
- (c) Transfer of services.
- (1) Any existing customer requesting a transfer of any utilities must maintain the appropriate deposit for the utility services being transferred. Any existing deposit, less deficiencies on the existing account, will be transferred directly to the new account. Any deficiencies in the prior utility account will also be transferred to the new utility account.
 - (2) No customer will be allowed to transfer and maintain services without paying all deficiencies on existing or prior utility accounts in full and having the full deposit for utility services on deposit with the city at the time of transfer, but not later than the next complete billing cycle at the transfer location.

(Ordinance 8-313 (ord. 99), art. IV, sec. 3, adopted 8/31/1999; Ordinance adopting Code)

§ 12.02.074. Rates and charges for water service.

- (a) Fee schedule. The rates, fees and charges set forth in the fee schedule in appendix A of this code shall be charged and paid for water services within the city.

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- (b) Minimum rate. Residential and commercial customers shall be charged the applicable minimum monthly rate per meter as long as such meter is active, whether the customer actually uses the services or not; provided that, if meter is removed or locked at the customer's request, no minimum charge for service shall be assessed.
- (c) Meter test. A water meter test will be performed at the request of the customer. If the meter is found to be "fast" (registering over 101%), there will be no charge for the test. If found to be less than 101%, the customer will be billed the amount set forth in the fee schedule in appendix A of this code for the testing service.

(Ordinance 8-313 (ord. 99), art. IV, sec. 4, adopted 8/31/1999; Ordinance adopting Code)

§ 12.02.075. Rates for wastewater service.

The monthly rates set forth in the fee schedule in appendix A of this code shall be charged to each tap user for sewer service.

(Ordinance 8-313 (ord. 99), art. IV, sec. 5, adopted 8/31/1999; Ordinance adopting Code)

§ 12.02.076. Rates for solid waste services.

- (a) Residential service. The minimum monthly charge per residential unit shall be as set forth in the fee schedule in appendix A of this code. The city shall notify each residential customer in writing of the initial monthly rate and subsequent changes in the monthly rate at least 30 days before the effective date of such rate. The fee for the first month of service shall be collected on the first billing cycle after application for service is made and payment of the monthly rate shall be made each month thereafter.
- (b) Commercial/industrial rate. The rates for solid waste services for commercial and industrial customers shall be determined by individual agreement and contract based upon location, volume and frequency of service.

(Ordinance 8-313 (ord. 99), art. IV, sec. 6, adopted 8/31/1999; Ordinance adopting Code)

§ 12.02.077. Line extension and street cutting fees.

Water and sewer taps will be made for the base tap fee provided the tap is made to a water or wastewater line abutting or adjacent to the lot or parcel to be served ("standard location"). For the purposes of this article, a tap made on a water or wastewater line located between the boundary line of the property to be served and the right-of-way line of the street or alley abutting such lot, or a line located within the right-of-way of such street between the property boundary line and the traveled, paved portions of the street, shall also constitute a tap made at a "standard location." A tap made at a "standard location" shall be a "standard connection." A "non-standard location" is any location for a tap to serve any lot, tract or parcel of land other than at a standard location. A "nonstandard connection" is any tap that requires work, construction or extensions to be made for the tap, or that is made at other than

a standard location. Additional charges and fees will be assessed and collected as herein detailed for costs associated with line extensions and taps made to a non-standard location.

- (1) Availability of service. The existence of mains, trunk lines or other lines near a property will not constitute an obligation for the city to limit the tap fee or charge for making a water or sewer service tap to such line, where such lines must be tapped at other than a standard location, are inaccessible due to necessary crossings of streets, highways, drainage channels and similar barriers, or when cost must be incurred over and above the cost for making a tap at a standard location. Taps at non-standard locations must be arranged for with the director of public works in advance of the desired service date, to permit necessary extensions, crossings or similar construction.
- (2) Installation of non-standard connection. Upon the approval of the city manager, the owner or developer of a subdivision requiring a non-standard connection may contract with a qualified contractor for the installation, construction and extension of any water or sewer line necessary to make a non-standard connection or as necessary for the location for the tap to become a standard location and, in such event, such owner or developer shall pay the reasonable costs and charges therefor directly to the contractor and obtain a receipt and release from said contractor. The city shall otherwise, at the expense of the applicant for the tap, construct all line extensions and perform all construction required to make a water or sewer tap at a non-standard location. The city engineer or department of public works shall inspect such construction and work to assure it is completed in compliance with the applicable rules and regulations of the city and the ==state natural resource conservation commission.
- (3) Payment of costs. The reasonable costs and expenses for installing, constructing and extending any water or sewer line of the city to provide a tap at a non-standard location, or to extend such lines to a standard location, shall be charged and collected by the city, if such costs are not paid directly by an owner/developer pursuant to subsection (2) above. Such additional costs and expenses shall be equal to the difference between the cost of making the tap at a standard location and the cost of making the tap at the non-standard location, or, as the case may be, the difference between the cost of making the tap at a standard location and the costs incurred for the work and construction to extend the lines to a point or location that is a standard location for the tap.
- (4) Payment of line extension fee. When a water or sewer line extension charge is required the city may at its option require the owner being furnished the line to:
 - (A) Deposit, in advance, the estimated costs for construction of the water or sewer line that is estimated to be costs additional to a standard connection;
 - (B) Post a bond sufficient to cover the total estimated costs of line extension; or
 - (C) Provide a letter of credit sufficient to cover the total estimated costs of the line extension.
- (5) Line extension fees outside city limits. The costs set out in this section shall apply for connections to property both inside and outside the city limits.

(Ordinance 8-313 (ord. 99), art. IV, sec. 7, adopted 8/31/1999)

§ 12.02.078. No reduced rates or free service.

All customers receiving services from the city shall be subject to the provisions of this article and shall be charged the rates established in this article, and no reduced rates or free service shall be furnished to any customer. It is specifically provided, however, that this provision shall not prohibit the city, upon good cause shown, from establishing reasonable classifications of customers for which rates differing from the rates stated herein may be adopted, and that nothing contained herein shall be construed to prevent the city from furnishing water services to special projects or other establishments at a bulk rate if deemed advisable by the city.

(Ordinance 8-313 (ord. 99), art. IV, sec. 8, adopted 8/31/1999)

§ 12.02.079. Water and sewer committee.

The water and sewer committee will act as a board to hear extraordinary situations or complaints.

(Ordinance 8-313 (ord. 99), art. IV, sec. 9, adopted 8/31/1999)

§ 12.02.080. through § 12.02.110. (Reserved)

Division 4

Billing and Termination of Services**§ 12.02.111. Billing and payment for services.**

Bills for water, wastewater and solid waste services shall be mailed on or about the first day of each month for the services provided during the immediately preceding month.

- (1) Billing date. The billing date shall be the date of the mailing and the failure of the customer to receive any such bill shall in no way relieve the customer of the duty to pay for the services rendered on or before the due date.
- (2) Due date. Payment of bills is due on or before the fifteenth (15th) day of each month; provided that, if the 15th day is a weekend or holiday, payment shall be due the following business day.

(Ordinance 8-313 (ord. 99), art. V, sec. 1, adopted 8/31/1999; Ordinance 06-19-2017, sec. 4, adopted 6/19/2017; Ordinance 07-26-2021-1 adopted 7/26/2021)

§ 12.02.112. Delinquency, late charge and notice.

- (a) Delinquency. Any bill not paid by the due date shall be deemed past due and delinquent and subject to the late charge. All utility services are included in a bill (water, wastewater and/or solid waste collection) and payment in full for all services must be made or else the entire bill will be considered delinquent and is subject to the late charge.
- (b) Mailing of notice; late charge. If a bill is not paid in full by the due date, the city shall promptly mail a delinquency notice notifying the delinquent account holder that a late

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charge in the amount set forth in the fee schedule in appendix A of this code has been added to the total billing for water, wastewater and solid waste collection services and the water service will be disconnected on the twenty-fifth (25th) day of the month. If the 25th day is a weekend or holiday, payment shall be due the following business day.

- (c) Contents of notice. The delinquency notice shall include the total past due charges, all reconnect fees, and the company's office work hours and contact information. The notice shall specifically state that failure to pay past due charges will result in termination of all services and that all services will not be reconnected until all past due and currently due charges and the reconnect fee are paid.

(Ordinance 8-313 (ord. 99), art. V, sec. 2, adopted 8/31/1999; Ordinance 06-19-2017, sec. 4, adopted 6/19/2017; Ordinance 07-26-2021-1 adopted 7/26/2021; Ordinance adopting Code)

§ 12.02.113. Termination of service; charges for disconnection and reconnection.

- (a) Disconnection charge. An administrative fee as set forth in the fee schedule in appendix A of this code will be assessed for each occurrence requiring personnel to disconnect or attempt to disconnect the water service. Such fee must be paid at the time past due monies are tendered, and prior to any reconnections or additional services being provided.
- (b) Termination at owner's request. Whenever a customer who is not delinquent in the payment of any bill requests that water service be temporarily discontinued, such customer shall notify the city's operator at least two (2) days prior to the desired date of discontinuing service. There will be a reconnect fee as set forth in the fee schedule in appendix A of this code payable at the time the customer desires services to continue.
- (c) Delinquent accounts. Any residence or property where utility services are requested to be provided where a deficient account is still outstanding from a previous customer shall not be reconnected in a different name than the account was previously connected under unless the person requesting utility services demonstrates that the person whose name the account was previously billed to is no longer a resident of the property or in control of the property without paying the deficiencies on the account.
- (1) New owners of the property or new residents of the leasehold shall not be responsible for the delinquent utility accounts of a prior owner or leaser who has vacated the premises.
 - (2) No customer may establish a new utility account in his or her name who has an outstanding deficiency from any previous utility account held by the city and such account has been delinquent for less than four (4) years without paying all deficiencies in addition to the deposit for the new utility account.
- (d) Other termination. After proper notice has been provided, the water services may be disconnected for the reasons listed below:
- (1) Payment by check which has been rejected for insufficient funds, closed account, or for which a stop payment order has been issued is not deemed to be payment to the utility.

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- (2) Violation of the utility's rules pertaining to the use of service in a manner which interferes with the service of others.
- (3) Operation of non-standard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation.
- (4) Failure to comply with deposit or guarantee arrangements where required, relating to service applicant and customer deposits.
- (5) Failure to pay charges for sewer service provided by another retail public utility.
- (6) Failure to pay solid waste disposal fees collected under contract with a county or other public agency.

(Ordinance 8-313 (ord. 99), art. V, sec. 3, adopted 8/31/1999; Ordinance 06-19-2017, sec. 4, adopted 6/19/2017; Ordinance 07-26-2021-1 adopted 7/26/2021; Ordinance adopting Code)

§ 12.02.114. Minors.

No account may be held in the name of a person who is under the age of eighteen (18) years unless the minor requesting services provides adequate evidence that the minor has been emancipated through marriage or other legal means.

(Ordinance 8-313 (ord. 99), art. V, sec. 4, adopted 8/31/1999; Ordinance 06-19-2017, sec. 4, adopted 6/19/2017)

§ 12.02.115. Returned checks.

A returned check fee as set forth in the fee schedule in appendix A of this code shall be charged on each check returned to the city without payment. Accounts shall be considered delinquent if a check was tendered for payment of the account; upon the sending of notice from the city of the return of check, the account holder shall have ten (10) days from the date of the letter to tender payment by cash or cashier's check for the balance of the sum paid by check and the returned check fee or services shall be terminated as provided for all delinquent accounts.

(Ordinance 06-19-2017, sec. 4, adopted 6/19/2017; Ordinance adopting Code)

§ 12.02.116. through § 12.02.140. (Reserved)

Division 5 Solid Waste Collection

§ 12.02.141. Residential service.

The following rules, regulations and provisions shall, in addition to the other applicable provisions of this article, govern the provision of solid waste services to residential units:

- (1) Mandatory participation by residential units. Every residential unit within the corporate limits of the city shall be required to utilize garbage collection and disposal services

provided under contract by the city when such residential unit is occupied. A residential unit shall be deemed occupied when either water, sewer, or electrical power services are being supplied.

- (2) Curbside service. The contractor shall provide curbside collection service for the collection of no more than one garbage cart of residential refuse to each residential unit one (1) time per week. Customers must place the cart at curbside by 7 a.m. on the designated collection day. In addition to the scheduled weekly collection of residential refuse, the contractor may from time to time provide special collection of bundles, bulky waste, construction debris, dead animals and hazardous waste at residential units at the request of the city.
- (3) Cart placement at curb. Each cart for collection shall be placed at curbside for collection. Curbside refers to that portion of the right-of-way adjacent to paved or traveled city roadways with placement as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, carts shall be placed as close as practicable to an access point for the collection vehicle. The contractor may decline to collect any cart not so placed.
- (4) Hours of operation. Collection of residential refuse and special collections scheduled by the city shall not start before 7 a.m. or continue after 7 p.m. on the same day. Exceptions to collection shall be effected only upon the mutual agreement of the city and contractor, or when the contractor reasonably determines that an exception is necessary to complete collection on an existing collection route due to unusual circumstances.
- (5) Holidays. In the event of suspension of regular collection service on a holiday, collection service shall be provided on the next business day after the holiday.
- (6) Complaints. All complaints shall be made directly to the contractor. In the case of verified missed scheduled collections, the contractor shall arrange for the collection within 48 hours after the complaint is received. The city shall notify customers of complaint procedures, and of the location and telephone number at which the contractor can be reached between the hours from 8:00 a.m. to 4:30 p.m. on regular collection days.
- (7) Appeals. Any determination by the city, the contractor or the city's operator regarding the terms and provisions of this article may be appealed to the city council, which shall conduct a hearing on the matter. The city, the contractor or the city's operator, as applicable, shall, upon request, provide the customer with information regarding appeals and hearing procedures.

(Ordinance 8-313 (ord. 99), art. VI, sec. 1, adopted 8/31/1999)

§ 12.02.142. Commercial and industrial units.

Every commercial and industrial unit within the corporate limits of the city shall be required to utilize garbage collection and disposal services provided under contract by the city when such commercial or industrial unit is occupied. A commercial or industrial unit is deemed occupied if at least one employee or owner of the business is present at the building or

structure for any period of time during the business's regular operating hours. Commercial and industrial units shall arrange by individual agreement for collection and disposal of refuse. Such operations shall comply with all applicable laws. Vehicles and equipment used for such collections shall be kept in good repair, appearance and sanitary condition, and all refuse shall be contained, tied or enclosed so as to prevent leaking, spilling or blowing during hauling.

(Ordinance 8-313 (ord. 99), art. VI, sec. 2, adopted 8/31/1999; Ordinance A52206-1, sec. 7, adopted 5/22/2006)

§ 12.02.143. through § 12.02.170. (Reserved)

Division 6

Waterworks System

§ 12.02.171. Damage or injury to waterworks system.

It shall be unlawful for any person, in any way, to intentionally or carelessly break, deface or in any manner damage, injure or destroy any hydrant, standpipe, lock box or other property belonging to the city or belonging to others, and used in connection with the waterworks system of the city. No person other than a duly authorized agent of the city shall remove, repair, or tamper with or in any way interfere with or alter any of the city's meter boxes, meters, lock boxes, water service lines, sewer service lines, or other water or sewer system appurtenances. The city reserves the right to immediately and without notice remove the meter or disconnect water service to any customer whose meter has been tampered with and to assess actual repair charges to the customer plus a damage fee in the amount set forth in the fee schedule in appendix A of this code.

(Ordinance 8-313 (ord. 99), art. VII, sec. 1, adopted 8/31/1999; Ordinance adopting Code)

§ 12.02.172. Repair of damages.

- (a) All meters, fittings, boxes, valves and appurtenances installed by city personnel shall remain the property of the city. The city reserves the right on 24-hour notice, and no appeal being filed, to remove the meter or disconnect water service to any customer whose meter or lock box has been tampered with and to assess actual repair charges to the customer plus a damage fee in the amount set forth in the fee schedule in appendix A of this code. As necessary or advisable to protect the public health or the operation and function of the city's water or sewer system, the city further reserves the right and authority to proceed immediately and without notice to disconnect, or to repair when and as necessary and appropriate, any meter, pipe, line or other appurtenance connected to the city water or sewer system, and if such repair is made to any such line, pipe or appurtenance owned by any private property owner to assess the actual repair charges to the customer who owns, rents, or controls such property. Failure to repair or failure to pay for repairs performed by the city shall constitute cause for the city to terminate services to the customer charged with the repairs. The city requires each customer to "CALL BEFORE YOU DIG" so the water department will be able to locate lines for the customer. Repair charges will be assessed to the customer if no attempt is made to contact the city water department before digging and damage occurs.

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- (b) Repair charges are due within 10 days from the date of invoice and are as follows:
- (1) Labor charges: Regular time for repairs needed during normal business hours. After 5:00 p.m. and weekends, time and one-half.
 - (2) Equipment rental: Actual cost to city.
- (c) If not paid within 10 days from the date of invoice, the city reserves the right to immediately and without notice remove the meter or disconnect water service until all repair charges are paid in full.

(Ordinance 8-313 (ord. 99), art. VII, sec. 2, adopted 8/31/1999; Ordinance adopting Code)

§ 12.02.173. Repair of service pipes and mains.

- (a) Repair of service pipes. The city reserves the right to make all repairs and renewals of service pipes from the main to the curb, and it shall be unlawful for any other person or persons to repair or renew service pipe from the main to the meter.
- (b) Repair of mains. It shall be unlawful for any plumber or person, other than the tapper employed by the city, to tap any street main, to make connection with the street main or to extend service pipes from the main; said work shall be under the exclusive control of the city.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.174. Boiler safety valve requirement.

All consumers' water heaters and boilers for heating water shall be provided with safety valves to protect the water meter from hot water. All steam boilers connected directly with the city water supply are required to provide a tank or tanks for storage purposes. Any consumer failing to comply with this provision shall have his water supply cut off and not turned on again until such valve has been installed. If a water meter has been damaged by failure to comply with this section, then the consumer shall pay for such damages.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.175. Regulations on laying of service pipe.

All service pipes shall be laid at least eighteen (18) inches under the ground and provided with a gate valve inside the property line, such as to properly drain all pipes above ground.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.176. Emergency shut-off valve.

The consumer shall install and have an approved gate valve inside of the property line with [within][??] six (6) inches from the metering box in case of emergency, and shall not use the curb cock at the meter in lieu thereof.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.177. Fire hydrant use restricted.

- (a) Fire hydrants shall be provided for the sole purpose of use in extinguishing fires, and shall be used or opened only by the water and fire departments or such persons as may be given authority by the city.
- (b) It shall be unlawful for any person to carry away water from a hydrant without written permission from city, or to place upon or about any fire hydrant, gate valve, curb cock, meter, or meter box any object, material debris, or structure of any kind so as to prevent immediate access to same.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.178. Defacing, breaking into or tampering with water system or property.

- (a) It shall be unlawful for any person in any manner to deface the houses, walls, machinery or fixtures connected with or pertaining to the city and its water system.
- (b) It shall be unlawful for any person to break, damage, or tamper with any part of the water system of the city for any purpose whatsoever, or in any other manner maliciously interfere with or prevent the running and operation of such system and the water supply therein.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.179. Waste of water prohibited.

It shall be unlawful for any person to willfully or negligently waste water in any manner whatsoever. Any person having knowledge of any condition whereby water is being wasted shall immediately notify the city.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.180. Water usage restricted during emergencies.

In case of fire or other emergency or a shortage in the water supply, water consumers shall be required to shut off lawn sprinklers or any steady flow of water in use when fire or emergency occurs and keep the same off until the emergency is under control.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.181. Temporary termination of service.

The city may, at any time and without notice, order the water shut off for repairs, extension, or other purposes from any premises connected to the system. In the event of shut-off under this section, the city shall not be liable, for any reason whatsoever, to a customer for non-use of the city's water and/or system.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.182. Resale or furnishing of water outside city limits.

- (a) Permit required. It shall be unlawful for any customer of city water to knowingly resell, give or otherwise furnish water to any land or premises outside of the corporate limits or the city without first having received a permit therefor approved by the city council.
- (b) Application for permit; granting or refusal. Any consumer of city water within the corporate limits of the city who desires to resell, give, permit or otherwise furnish water to land or premises outside of the corporate limits shall first make application in writing for a permit to do so with the city secretary stating the use or uses to be made of such water, and the maximum amount of water estimated to be resold or furnished monthly outside the corporate limits. Upon receipt of such application for said permit, the city secretary shall forthwith refer such application to the city council, who shall have the sole and absolute authority to grant or refuse such application for such permit in accordance with what it believes to be the best interest of the city, its citizens, and residents.
- (c) Violations. In the event that any consumer of city water violates or continues to violate the provisions of this section, after the effective date of this section, and refuses to immediately discontinue the resale or the furnishing of water to land or premises outside the corporate limits of the city, the city secretary shall have the authority, after giving written notice to such consumer by certified United States mail, return receipt requested, to immediately cease and desist from such violation, to disconnect and suspend all water service to the land or premises of the consumer from which the water is being supplied to the land or premises outside the corporate limits of the city.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.183. Incorporation of regulations into consumer contracts.

All of the provisions of this article shall be deemed to be incorporated into every contract between the city water and its consumers, and each consumer shall be charged with the responsibility for knowledge of the provisions of this article, and by applying the responsibility for knowledge of the provisions of this article,[??] and by applying for and accepting water from the city water, to have assented to the provisions hereof.

(Ordinance 03-22-21, sec. 7, adopted 3/22/2021)

§ 12.02.184. Penalty.

Any person who shall violate any of the provisions of this division, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(Ordinance 8-313 (ord. 99), art. VII, sec. 3, adopted 8/31/1999)

§ 12.02.185. through § 12.02.210. (Reserved)

Division 7

Cross-Connection Control Program**§ 12.02.211. Definitions.**

290 Rules. The TCEQ's rules and regulations for public water systems, which appear in title 30 Texas Administrative Code, chapter 290.

Manual M14. The American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control, current edition.

TCEQ. The state commission on environmental quality.

(Ordinance 03-22-21, sec. 8, adopted 3/22/2021)

§ 12.02.212. Applicability.

- (a) No water service connection shall be made to any establishment where a potential or actual contamination hazard exists unless the water supply is protected in accordance with the 290 Rules and this division. The water purveyor shall discontinue water service if a required air gap or backflow prevention assembly is not installed, maintained, and tested in accordance with the 290 Rules and this division.
- (b) No backflow protection at the water service meter is required where an adequate internal cross-connection control program is in place.

(Ordinance 03-22-21, sec. 8, adopted 3/22/2021)

§ 12.02.213. Installation, testing and maintenance of backflow prevention assemblies.

- (a) All backflow prevention assemblies must be tested upon installation by a licensed backflow prevention assembly tester and certified to be operating within specifications. Prevention assemblies that are installed to protect against health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester.
- (b) Backflow prevention assemblies installed on fire suppression systems must be tested by a backflow prevention assembly tester permanently employed by an approved fireline contractor.
- (c) Gauges used for backflow prevention assembly testing must be tested for accuracy at least annually in accordance with the AWWA's Manual M14 or the current edition of the University of Southern California's Manual of Cross-Connection Control. A copy of the gauge accuracy test report must be submitted to the city to demonstrate the gauge has been tested for accuracy.
- (d) A recognized backflow prevention assembly tester must hold a current license issued from the TCEQ.

(Ordinance 03-22-21, sec. 8, adopted 3/22/2021)

§ 12.02.214. Customer service inspections.

- (a) A customer service inspection must be completed before the provision of continuous water service to all new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other contaminant hazards exist, or after any material improvement, correction, or addition to the private facilities.
- (b) Only individuals with the following credentials shall be recognized as capable of conducting a customer service inspection:
 - (1) Plumbing inspectors and water supply protection specialists that have been licensed by the state board of plumbing examiners.
 - (2) Customer service inspectors that have been licensed by the TCEQ.
- (c) The customer service inspection must certify that:
 - (1) No direct connection between the public drinking water supply and a potential source of contamination exists. Potential sources of contamination must be isolated from the public water system by a properly installed air gap or an appropriate backflow prevention assembly.
 - (2) No cross-connection between the public water supply and a private water source exists. Where an actual, properly installed air gap is not maintained between the public water supply and a private water supply, an approved reduced pressure zone backflow prevention assembly is properly installed, and a service agreement exists for annual inspection and testing by a recognized backflow prevention assembly tester.
 - (3) No connection exists that allows water to be returned to the public drinking water supply.
 - (4) No pipe or pipe fitting that contains more than 0.25 percent lead is used for the installation or repair of plumbing at any connection that supplies water for human use.
 - (5) No solder or flux that contains more than 0.2 percent lead is used for the installation or repair of plumbing at any connection that provides water for human use.

(Ordinance 03-22-21, sec. 8, adopted 3/22/2021)

§ 12.02.215. Irrigation systems.

Any irrigation system that is connected to a public or private potable water supply must be connected through a backflow prevention assembly approved by the state commission on environmental quality. Backflow prevention assemblies installed on irrigation systems that are classified as health hazards must be tested at least annually or as required by the adopted plumbing code.

(Ordinance 03-22-21, sec. 8, adopted 3/22/2021)

§ 12.02.216. Fire hydrant protection.

- (a) An approved reduced pressure principle backflow prevention assembly (RPBA) is be the minimum protection for fire hydrant water meters that are being used for a temporary water supply during any construction or other uses which would pose a potential hazard to the public water supply.
- (b) An RPBA must be installed if any solution other than potable water can be introduced into the system.
- (c) It is the responsibility of all persons engaging in the use and rental of a fire hydrant water meter to abide by the conditions of this article. All fire hydrant meter rentals shall meet the current requirements of the city.

(Ordinance 03-22-21, sec. 8, adopted 3/22/2021)

§ 12.02.217. through § 12.02.240. (Reserved)

Division 8

Enforcement and Notices**§ 12.02.241. Generally.**

- (a) Issuance of citation. If an officer charged with the enforcement of this article shall determine that a person has violated any provision of this article, such officer may issue a citation.
- (b) Immediate action by enforcement officer. If an officer charged with the enforcement of this article shall determine that a situation exists which immediately affects or threatens the health, safety and well-being of the general public, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner and/or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.
- (c) Action by city council. If an officer charged with enforcement of this article determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the city council may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare.
- (d) Termination of service or correction by city. If any owner or occupant shall fail or refuse to remedy any of the conditions prohibited by this article within seven (7) days after notice to do so, the city may terminate services or do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made to the owner(s) of the property, and such charge shall be a personal liability of such owner to the city.
- (e) Notice requirements. Notices required pursuant to this article shall be in writing. Such notices may be served upon such owner and/or occupant as follows: in person by an

officer or employee of the city; by letter addressed to such owner or occupant at his/her post office address; or, if personal service may not be had, or the owner or occupant's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city or by posting a notice on or near the front door of each building on the property upon which the violation relates, or, if no building exists, by posting notice on a placard attached to a stake driven into the ground on the property to which the violation relates. Notices of termination of services for nonpayment shall be mailed regular first-class mail to the address designated on the account for receipt of the bill and shall be deemed served within three (3) days of deposit in the regular mail. The notice may state "Sanitary Improvements", "To Whom It May Concern" and a brief statement of the violation(s) or delinquency. If the notice is for delinquency, the notice shall include a termination date and location for payment for services. Service of the notice by any one of the above methods, or by a combination thereof, shall be deemed sufficient notice.

- (f) Refused or unclaimed notices. If an owner is mailed a notice in accordance with subsection (e) and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
- (g) Subsequent violations. Notices of nuisances provided by mail or by posting as set forth in subsection (e) may provide for year-round abatement of the nuisance and inform the owner that, should the owner commit any other violation of the same kind that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may abate the violation at the owner's expense and assess the costs against the property.
- (h) Citation without notice. Persons in violation of this article or causing or creating a prohibited nuisance in the presence of a person authorized to enforce this article may be cited or a complaint filed for such violation without notice of the violation, or warning, and such citation or complaint shall be filed in the municipal court of the city.

(Ordinance 06-19-2017, sec. 5, adopted 6/19/2017)

§ 12.02.242. Collection of costs; appeals.

In addition to any other remedy provided in this article and cumulative thereto, the code enforcement officer, after giving to the owner of the property seven (7) days' notice in writing, as provided in section 12.02.241 above, may cause any of the work or improvements mentioned in this article to be done at the expense of the city, and charge the utility bill of the property on which such work or improvements are done, and cause all of the actual cost to the city to be assessed on the real estate or lot on which such expenses occurred; provided that the owner of any such real estate may appeal to the city council from the order of the code enforcement officer by filing a written statement with the code enforcement officer within (7) days after receipt of the notice provided for above, stating that such real estate complied with the provisions of this article before the expiration of a seven (7) day period. The city council shall set a date, within thirty (30) days from the date of the appeal, for hearing the appeal to determine whether the real estate complied with the provisions of this article before the expiration of such seven (7) day period. The authority of the code enforcement officer to proceed to cause such work to be done shall not be suspended while

an appeal from the order is pending. If it shall be determined by the city council that the premises complied with the provisions of this article before the expiration of the seven (7) day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such work was done.

(Ordinance 06-19-2017, sec. 5, adopted 6/19/2017)

§ 12.02.243. Cost of abatement constitutes lien.

Cumulative of the city's remedy by fine, as set forth herein, the city may do such work or cause the same to be done to remedy such condition or to remove such matter from such owner's premises at the city's expense and charge the same to the utility bill of such property and assess the same against the real estate or lot or lots upon which such expense is incurred.

- (1) Expenditures plus ten (10) percent per annum interest on the expenditures from the date of such payment by the city shall be added to the next billing cycle for utility bills for the real estate or lot or lots, if not already paid. Payment shall be due and payable in full by the owner or occupant at the time of payment of such utility bill. If the property is unoccupied, no utilities shall be furnished to the property where the work occurred until such obligation, as herein set out, payable to the city for abatement of any nuisance described herein, is paid in full.
- (2) Upon filing with the county clerk of Bell County of a statement by the city secretary or designee of such expenses, the city shall have a privileged lien upon said real estate or lot or lots, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten (10) percent per annum interest on the amount from the date of such payment so made by the city.
- (3) The city may, additionally, institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter.

(Ordinance 06-19-2017, sec. 5, adopted 6/19/2017)

§ 12.02.244. Enforcement.

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

(Ordinance 06-19-2017, sec. 5, adopted 6/19/2017)

§ 12.02.245. Penalties.

- (a) Penalty for violation. Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to

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exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

- (b) Failure to pay fees and charges. It shall be unlawful to receive water, wastewater or solid waste collection service from the city and fail to pay the fees and charges for such service or services. It shall be prima facie evidence that a delinquent customer is in violation of this section if the service fee or charges remain unpaid thirty (30) days after receiving written notice of such delinquency. Conviction of the offense of failure to pay a service fee or charge shall be a misdemeanor subject to a fine of not less than two hundred dollars (\$200.00) and not more than two thousand dollars (\$2,000.00). Each day in violation shall be deemed a separate offense and subject to the penalty herein provided.

(Ordinance 06-19-2017, sec. 5, adopted 6/19/2017)

§ 12.02.246. through § 12.02.270. (Reserved)

Division 9

Miscellaneous Provisions

§ 12.02.271. No service guarantee.

Customers are not guaranteed a specific quantity or pressure of water, or any specific level of any solid waste, sewer or other service, for any purpose whatever; in no instance shall the city be liable for failure or refusal to furnish water or any particular amount or pressure of water, or any other service under this article.

(Ordinance 8-313 (ord. 99), art. VIII, sec. 1, adopted 8/31/1999)

**ARTICLE 12.03
WATER WELLS**

§ 12.03.001. Drilling water well.

- (a) Any person desiring to drill a water well within the limits of the city shall be governed by the following rules, regulations and procedures:
- (1) A permit shall be obtained from the building inspector, who shall issue the same upon a form prepared for that purpose before any drilling operations of any kind whatsoever are conducted or commenced.
 - (2) A fee shall be paid to the city in accordance with the fee schedule in appendix A of this code.
- (b) The penalty and enforcement provisions in article 12.02 of this chapter apply to this section.

(Ordinance 03-22-21, sec. 8, adopted 3/22/2021)

**ARTICLE 12.04
WINDMILLS****§ 12.04.002. Construction of windmill.**

- (a) In the event of the erection of a windmill over a well or to generate power within the corporate limits of the city, such windmill shall be kept at a distance of not less than thirty feet (30') from all overhead electric wires, and the erection of the same shall be under the supervision and control of the building inspector.
- (b) The penalty and enforcement provisions in article 12.02 of this chapter apply to this section.

(Ordinance 03-22-21, sec. 8, adopted 3/22/2021)

**ARTICLE 12.05
PRIVATE SEWAGE FACILITIES****§ 12.05.001. Connection to city wastewater system required.**

Unless otherwise provided in this article, all lots must connect with the city wastewater system before a building permit will be issued. The cost of connection will be the responsibility of the lot owner.

(Ordinance 29-2020, pt. I, sec. I(A), adopted 9/29/2020)

§ 12.05.002. Exception for private sewage facility.

Upon submission of an application, the city council may grant an exception to this article and allow the installation and use of a private sewage facility. When considering whether to grant or deny an exception, the council will consider the availability of service from the city wastewater system to the lot subject to the application. A separate application must be submitted for each separate, subdivided lot.

(Ordinance 29-2020, pt. I, sec. I(B), adopted 9/29/2020)

§ 12.05.003. Approval by county public health district.

Placement of a private sewage facility on a lot for which an exception has been granted is subject to approval by the Bell County Public Health District.

(Ordinance 29-2020, pt. I, sec. I(C), adopted 9/29/2020)

§ 12.05.004. Definition.

Private sewage facility means all systems and methods used for the disposal of sewage, other than organized sewage disposal systems. Private sewage facilities are usually composed of three (3) units: the generating unit (the residence, institution, etc.), the treatment unit, and the disposal unit (the drainfield that may be an absorption trench or bed, or an evapotranspiration bed). A private sewage facility includes a septic tank, seepage tile sewage disposal system or

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any other on-lot sewage treatment device approved and installed in accordance with all local, state, and federal laws and regulations.

(Ordinance 29-2020, pt. I, sec. I(D), adopted 9/29/2020)

§ 12.05.005. Minimum lot size.

Lots to be served by septic systems shall be a minimum of 21,780 square feet in size (one-half acre), or larger dependent on soils and percolation tests, and shall conform to the Bell County regulations based on percolation tests.

(Ordinance 29-2020, pt. I, sec. I(E), adopted 9/29/2020)

§ 12.05.006. Existing facilities.

Lots with private sewage facilities in existence prior to the adoption of this article may continue to utilize private sewage facilities until a city wastewater system line runs adjacent to the property line for that lot. Cost for such connection will be the responsibility of the lot owner.

(Ordinance 29-2020, pt. I, sec. I(F), adopted 9/29/2020)

§ 12.05.007. Enforcement; penalty.

- (a) Penalty. Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.
- (b) Administrative action. The city engineer and/or the city administrator shall enforce this article by appropriate administrative action, including but not limited to the rejection of plans, maps, plats and specifications not found to be in compliance with this article and good engineering practices, and the issuance of stop work orders.
- (c) Court proceedings. Upon the request of the city council, the city attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this article, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this article.

(Ordinance 29-2020, pt. I, sec. II, adopted 9/29/2020)

ARTICLE 12.06
DROUGHT CONTINGENCY PLAN

§ 12.06.001. Declaration of policy, purpose, and intent.

- (a) In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the city hereby adopts the following regulations and restrictions on the delivery and consumption of water.
- (b) Water uses regulated or prohibited under this drought contingency plan (“the plan”) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in section 12.06.010 of this plan.

(Ordinance 9-11-00 (ord. 3), sec. I, adopted 9/11/2000; Ordinance 4-23-18, sec. I, adopted 4/23/2018)

§ 12.06.002. Public involvement.

Opportunity for the public to provide input into the preparation of the plan was provided by the city by means of scheduling and providing public notice of a public meeting to accept input on the plan.

(Ordinance 9-11-00 (ord. 3), sec. II, adopted 9/11/2000; Ordinance 4-23-18, sec. II, adopted 4/23/2018)

§ 12.06.003. Public education.

The city will periodically provide the public with information about the plan including information about the conditions under which each stage of the plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of public events, press releases or utility bill inserts.

(Ordinance 9-11-00 (ord. 3), sec. III, adopted 9/11/2000; Ordinance 4-23-18, sec. III, adopted 4/23/2018)

§ 12.06.004. Coordination with regional water planning groups.

The service area of the city is located within the Brazos River Authority regional water planning area and the city has provided a copy of this plan to the Brazos River Authority and to Central Texas Water Supply Corporation.

(Ordinance 9-11-00 (ord. 3), sec. IV, adopted 9/11/2000; Ordinance 4-23-18, sec. IV, adopted 4/23/2018)

§ 12.06.005. Authorization.

The mayor of the city or his/her designee is hereby authorized and directed to implement the applicable provisions of this plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The mayor, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this plan.

(Ordinance 9-11-00 (ord. 3), sec. V, adopted 9/11/2000; Ordinance 4-23-18, sec. V, adopted 4/23/2018)

§ 12.06.006. Applicability.

The provisions of this plan shall apply to all persons, customers, and property utilizing water provided by the city. The terms “person” and “customer” as used in the plan include individuals, corporations, partnerships, associations, and all other legal entities.

(Ordinance 9-11-00 (ord. 3), sec. VI, adopted 9/11/2000; Ordinance 4-23-18, sec. VI, adopted 4/23/2018)

§ 12.06.007. Definitions.

For the purposes of this plan, the following definitions shall apply:

Aesthetic water use means water use for ornamental or decorative purposes such as fountains, reflecting pools and water gardens.

Commercial and institutional water use means water use which is integral to the operations of commercial and nonprofit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation means those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer means any person, company or organization using water supplied by the city.

Domestic water use means water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, and sanitation, or for cleaning a residence, business, industry, or institution.

Even-number address means street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Industrial water use means the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use means water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-essential water use means water uses that are not essential nor required for the protection of the public health, safety, and welfare, including:

- (1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided under this plan;
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (4) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (5) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;
- (7) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (8) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (9) Use of water from hydrants or flush valves for construction purposes or any other purposes other than firefighting.

Odd-number address means street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7 or 9.

(Ordinance 9-11-00 (ord. 3), sec. VII, adopted 9/11/2000; Ordinance 4-23-18, sec. VII, adopted 4/23/2018)

§ 12.06.008. Criteria for initiation and termination of drought response stages.

- (a) The mayor or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the plan, that is, when the specified “triggers” are reached.
- (b) The triggering criteria described below are based on information provided by the Brazos River Authority and/or Central Texas Water Supply corporation and are further based on known system capacity limits.
 - (1) Stage 1 triggers: Mild water shortage conditions.
 - (A) Requirements for initiation. Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in section 12.06.007 (Definitions) when, pursuant to requirements specified in the city’s wholesale water purchase contract with Central Texas Water Supply Corporation, notification is received requesting initiation of Stage 1 of the drought contingency plan.

- (B) Requirements for termination. Stage 1 of the plan may be rescinded when all the conditions listed as triggering events have ceased to exist for a period of ninety (90) consecutive days.
- (2) Stage 2 triggers: Moderate water shortage conditions.
- (A) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in section 12.06.009 of this plan when, pursuant to requirements specified in the city's wholesale water purchase contract with Central Texas Water Supply Corporation, notification is received requesting initiation of Stage 2 of the drought contingency plan.
- (B) Requirements for termination. Stage 2 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of ninety (90) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.
- (3) Stage 3 triggers: Severe water shortage conditions.
- (A) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses when, pursuant to the requirements specified in the city's wholesale water purchase contract with Central Texas Water Supply Corporation, notification is received requesting initiation of Stage 3 of the drought contingency plan.
- (B) Requirements for termination. Stage 2 of the plan may be rescinded when all the conditions listed as triggering events have ceased to exist for a period of ninety (90) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative. The Central Texas Water Supply Corporation will notify wholesale customers and the media of the termination of Stage 3.
- (4) Stage 4 triggers: Critical water shortage conditions.
- (A) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 of this plan when, pursuant to requirements specified in the city's wholesale water purchase contract with Central Texas Water Supply Corporation, notification is received requesting initiation of Stage 4 of the drought contingency plan.
- (B) Requirements for termination. Stage 4 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of ninety (90) consecutive days. Upon termination or Stage 4, Stage 3 becomes operative.
- (5) Stage 5 triggers: Emergency water shortage conditions.
- (A) Requirements for initiation. Customers shall be required to comply with requirements and restrictions for Stage 5 of this plan when the mayor, or his/her designee, determines that a water supply emergency exists based on:

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- (i) Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
 - (ii) Natural or man-made contamination of the water supply source(s); or
 - (iii) Failure of Central Texas Water Supply Corporation to provide sufficient water to meet the basic needs of the city systems.
- (B) Requirements for termination. Stage 5 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of ninety (90) consecutive days.
- (6) Stage 6 triggers: Water allocation.
- (A) Requirements for initiation. Customers shall be required to comply with the water allocation plan prescribed in section 12.06.009 of this plan and comply with the requirements and restrictions for Stage 5 [Stage 6][??] of this plan when the mayor, or his/her designee, determines that a water supply emergency exists based on:
- (i) Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
 - (ii) Natural or man-made contamination of the water supply source(s); or
 - (iii) Failure of Central Texas Water Supply Corporation to provide sufficient water to meet the basic needs of the city systems.
- (B) Requirements for termination. Water allocation may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of ninety (90) consecutive days.

(Ordinance 9-11-00 (ord. 3), sec. VIII, adopted 9/11/2000; Ordinance 4-23-18, sec. VIII, adopted 4/23/2018)

§ 12.06.009. Drought response stage notifications and water use restrictions.

- (a) Notification procedures. The mayor, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in section 12.06.008 of this plan, shall determine that a mild, moderate, severe, critical, emergency or water shortage condition exists and shall implement the following notification procedures:
- (1) Notification of the public. The mayor, or his/her designee, shall notify the public by the most efficient, timely and appropriate means available to him/her.
 - (2) Additional notifications. The mayor, or his/her designee, shall notify directly, or cause to be notified directly, the following individuals and entities:
 - (A) Fire chiefs or fire departments who use or might use water from the city.
 - (B) City and/or county emergency management coordinator(s).
 - (C) State disaster district/department of public safety.

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- (D) State commission on environmental quality (TCEQ), required when mandatory restrictions are imposed.
- (E) Major water users.

(b) Stage 1 response: Mild water storage conditions.

- (1) Goal. Achieve a voluntary 10% reduction in total water use, daily water demand, etc.
- (2) Supply management measures.
 - (A) Reduce or discontinue flushing of water mains; activation and use, if any, of an alternative supply source(s).
 - (B) Aggressive leak detection.
- (3) Voluntary water use restrictions.
 - (A) Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.
 - (B) All operations of the city shall adhere to water use restrictions prescribed for Stage 2 of the plan.
 - (C) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

(c) Stage 2 response: Moderate water shortage conditions.

- (1) Goal. Achieve a voluntary 15% reduction in total water use, daily water demand, etc.
- (2) Supply management measures.
 - (A) Continue to reduce or discontinue flushing of water mains; activation and use, if any, of an alternative supply source(s).
 - (B) Aggressive leak detection.
- (3) Water use restrictions. Under threat of penalty of violation, the following water use restrictions shall apply to all persons:
 - (A) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0,2,4,6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of

landscaped areas is permitted at any time if it is by means of hand-held hose, a faucet-filled bucket or a watering can of five (5) gallons or less, or a drip irrigation system.

- (B) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
- (C) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight.
- (D) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (E) Use of water from flush valves shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated flush valves for construction purposes may be allowed under special permit from the city.
- (F) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the city, the facility shall not be subject to these regulations.
- (G) All restaurants are prohibited from serving water to patrons except upon request of the patron.
- (H) The following uses of water are defined as non-essential and are prohibited:
 - (i) Wash-down of the sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - (ii) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - (iii) Use of water for dust control;
 - (iv) Flushing gutters or permitting water to run or accumulate in any gutter or street; and
 - (v) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

- (d) Stage 3 response: Severe water shortage conditions.
- (1) Goal. Achieve a 20% reduction in total water use, daily water demand, etc.
 - (2) Supply management measures.
 - (A) Continue to reduce or discontinue flushing of water mains; activation and use, if any, of an alternative supply source(s).
 - (B) Aggressive leak detection.
 - (3) Water use restrictions. All requirements of Stage 2 shall remain in effect during Stage 3 except:
 - (A) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, faucet-filled bucket, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.
 - (B) The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the city.
 - (C) The use of water for construction purposes from designated flush valves under special permit is to be discontinued.
- (e) Stage 4 response: Critical water shortage conditions.
- (1) Goal. Achieve a 25% reduction in total water use, daily water demand, etc.
 - (2) Supply management measures.
 - (A) Discontinue flushing of water mains; activation and use, if any, of an alternative supply source(s).
 - (B) Aggressive leak(s) detection.
 - (3) Water use restrictions. All requirements of Stages 2 and 3 shall remain in effect during Stage 4 except:
 - (A) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, faucet-filled bucket, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems is prohibited at all times.
 - (B) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.

- (C) The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools is prohibited.
 - (D) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a re-circulation system.
 - (E) No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.
- (f) Stage 5 response: Emergency water shortage conditions.
- (1) Goal. Achieve a 30% reduction in total water use, daily water demand, etc.
 - (2) Supply management measures.
 - (A) Discontinue flushing of water mains; activation and use, if any, of an alternative supply source(s).
 - (B) Aggressive leak(s) detection.
 - (3) Water use restrictions. All requirements of Stages 2, 3 and 4 shall remain in effect during Stage 5 except:
 - (A) Irrigation of landscaped areas is absolutely prohibited.
 - (B) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.
- (g) Stage 6 response: Water allocation. In the event that water shortage conditions threaten public health, safety, and welfare, the mayor is hereby authorized to allocate water according to the following water allocation plan:
- (1) Single-family residential customers.
 - (A) The allocations to residential water customers residing in single-family dwellings shall be as follows until an average of the first quarter’s (January, February and March) usage is determined, after which time that first quarter usage shall be used for allocation purposes:

| Persons per Household | Gallons per Month |
|-----------------------|-------------------|
| 1 or 2 | 6,000 |
| 3 or 4 | 7,000 |
| 5 or 6 | 8,000 |
| 7 or 8 | 9,000 |
| 9 or 10 | 10,000 |
| 11 or more | 12,000 |

- (B) “Household” means the residential premises served by the customer’s meter. “Persons per household” includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a customer’s household is comprised of two (2) persons unless the customer notifies the city of a greater number of persons per household on a form prescribed by the mayor. The mayor shall give his/her best effort to see that such forms are made available to every residential customer. It shall be the customer’s responsibility to go to the city offices to complete and sign the form claiming more than two (2) persons per household. New customers may claim more persons per household at the time of applying for water service on the form prescribed by the mayor.
- (C) During any period when either mandatory water use restrictions or water allocation of available water supplies is in effect, wholesale customers shall pay the following surcharges on excess water usage: 2x (two times) the normal monthly water charge. Surcharges shall be cumulative.
- (2) Master-metered multi-family residential customers.
- (A) The allocation to a customer billed from a master meter which jointly measures water to multiple permanent residential dwelling units (i.e., apartments, mobile homes) shall be allocated 6,000 gallons per month for each dwelling unit. It shall be assumed that such a customer’s meter serves two dwelling units unless the customer notifies the city of a greater number on a form prescribed by the mayor. The mayor shall give his/her best effort to see that such forms are made available to every such customer. It shall be the customer’s responsibility to go to the city offices to complete and sign the form claiming the actual number of dwellings. A dwelling unit may be claimed under this provision whether it is occupied or not. New customers may claim more dwelling units at the time of applying for new water service on the form prescribed by the mayor. If the number of dwelling units served by a master meter is reduced, the customer shall notify the city in writing within 2 days. In prescribing the method for claiming the actual number of dwellings, the mayor shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter or fails to timely notify the city of a reduction in the number of persons in a household shall be fined not less than \$1,000.00. Customers billed from master meters under this provision shall pay the monthly surcharges set forth in the fee schedule in appendix A of this code.
- (B) During any period when either mandatory water use restrictions or water allocation of available water supplies is in effect, wholesale customers shall pay the following surcharges on excess water usage: 2x (two times) the normal monthly water charge. Surcharges shall be cumulative.
- (3) Commercial customers.
- (A) A monthly water allocation shall be established by the mayor, or his/her designee, for each nonresidential commercial customer other than an

industrial customer who uses water for processing purposes. The nonresidential customer's allocation shall be approximately 75% of the customer's usage for corresponding month's billing period for the previous 12 months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists. Provided, however, a customer, 75% of whose monthly usage is less than 12,000 gallons, shall be allocated 12,000 gallons. The mayor shall give his/her best effort to see that notice of each nonresidential customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the city to determine the allocation. Upon request of the [customer][??] or at the initiative of the mayor, the allocation may be reduced or increased if (i) the designated period does not accurately reflect the customer's normal water usage, (ii) one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer, or (iii) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the city council. Nonresidential commercial customers shall pay the surcharges set forth in the fee schedule in appendix A of this code.

- (B) During any period when either mandatory water use restrictions or water allocation of available water supplies is in effect, wholesale customers shall pay the following surcharges on excess water usage: 2x (two times) the normal monthly water charge. Surcharges shall be cumulative.

(Ordinance 9-11-00 (ord. 3), sec. IX, adopted 9/11/2000; Ordinance 4-23-18, sec. IX, adopted 4/23/2018; Ordinance adopting Code)

§ 12.06.010. Enforcement.

- (a) No person shall knowingly or intentionally allow the use of water from the city for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by mayor, or his/her designee, in accordance with provisions of this plan.
- (b) If a person has three or more distinct violations of this plan, the mayor 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 as set forth in the fee schedule in appendix A of this code, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the mayor that the same action shall not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.
- (c) Any person, including a person classified as a water 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

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committed the violation, but any such person shall have the right to show that he/she did commit the violation. Parents 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, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of the plan and that the parent could not have reasonably known of the violation.

(Ordinance 9-11-00 (ord. 3), sec. X, adopted 9/11/2000; Ordinance 4-23-18, sec. X, adopted 4/23/2018; Ordinance adopting Code)

§ 12.06.011. Variances.

- (a) The mayor, or his/her designee, may, in writing, grant temporary variances for existing water uses otherwise prohibited under this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:
- (1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect.
 - (2) Alternative methods can be implemented which will achieve the same level of reduction in water use.
- (b) Persons requesting an exemption from the provisions of this article shall file a petition for variance with the city within 5 days after the plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the mayor, or his/her designee, and shall include the following:
- (1) Name and address of the petitioner(s).
 - (2) Purpose of water use.
 - (3) Specific provision(s) of the plan from which the petitioner is requesting relief.
 - (4) Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if the petitioner complies with this article.
 - (5) Description of the relief requested.
 - (6) Period of time for which the variance is sought.
 - (7) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date.
 - (8) Other pertinent information.
- (c) Variances granted by the city shall be subject to the following conditions, unless waived or modified by the mayor or his/her designee:

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- (1) Variances granted shall include a timetable for compliance.
 - (2) Variances granted shall expire when the plan is no longer in effect, unless the petitioner(s) has failed to meet specified requirements.
- (d) No variance shall be retroactive or otherwise justify any violation of this plan.
(Ordinance 9-11-00 (ord. 3), sec. XI, adopted 9/11/2000; Ordinance 4-23-18, sec. XI, adopted 4/23/2018)

APPENDIX

Appendix A
FEE SCHEDULE

ARTICLE A1.000
GENERAL PROVISIONS

- § A1.001. Adoption.
- § A1.002. Repeal and replacement of existing fees; International Code related fees.
- § A1.003. Future amendments.
- § A1.004. Resolution of conflicting ordinances.
- § A1.005. Effective date.

ARTICLE A2.000
GENERAL FEES

- § A2.001. General Fees.

ARTICLE A3.000
ANIMAL CONTROL

- § A3.001. Animal Control.

ARTICLE A4.000
MUNICIPAL COURT FEES

- § A4.001. Municipal Court Fees.

ARTICLE A5.000
BUILDING AND DEVELOPMENT RELATED FEES

- § A5.001. New construction permit fees.
- § A5.002. Remodel permit fees.
- § A5.003. Modular home permit fees.
- § A5.004. Moving permit fees.
- § A5.005. Swimming pool permit fees.
- § A5.006. New and existing residential construction inspection fees.
- § A5.007. Manufactured housing placement inspection fees.
- § A5.008. Remodel of existing dwelling inspection fees.

- § A5.009. Modular home/mobile home inspection fees (conveyance).
- § A5.010. Miscellaneous inspection fees.
- § A5.011. Commercial inspection fees.
- § A5.012. Conditional use/special use permit fees.
- § A5.013. Sexually oriented business license application and permit fees.
- § A5.014. Driveway permit fee.
- § A5.015. Street and right-of-way permit fees.
- § A5.016. Sign license fee.
- § A5.017. Sign permits.
- § A5.018. Zoning changes.
- § A5.019. Subdivision plan review.
- § A5.020. Installation of mobile home.

ARTICLE A6.000
MISCELLANEOUS FEES

- § A6.001. Abandoned and junked vehicle fees.

ARTICLE A7.000
BUSINESS RELATED FEES

- § A7.001. Peddler and solicitor permit fees.

ARTICLE A8.000
UTILITY FEES

- § A8.001. Water and wastewater (sewer) utility service security deposit.
- § A8.002. Tap fees, water and wastewater (sewer).
- § A8.003. Line extension and street cutting fees.

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| § A1.001 | HOLLAND CODE | § A1.003 |
| § A8.004. Private water well permit fees. | | § A8.013. Utility account late charge fee. |
| § A8.005. Capital recovery fees. | | § A8.014. Utility account termination of services and charges for disconnection and reconnection. |
| § A8.006. City street maintenance and repair utility fee. | | |
| § A8.007. Rates for water service. | | § A8.015. Utility payment returned check fee. |
| § A8.008. Rates for wastewater (sewer) service. | | |
| § A8.009. Meter test fee. | | |
| § A8.010. Rates for solid waste (trash) services. | | |
| § A8.011. Waterworks system damage fees. | | |
| § A8.012. Drought contingency fees. | | |

**ARTICLE A9.000
PARKS AND RECREATION**

§ A9.001. Kuhlmann Civic Center Fees.

**ARTICLE A1.000
GENERAL PROVISIONS**

§ A1.001. Adoption.

The city master fee schedule set out in this appendix is adopted as the current fee schedule for the city.

(Ordinance 09-27-21C, pt. 1, adopted 9/27/2021)

§ A1.002. Repeal and replacement of existing fees; International Code related fees.

The city council hereby repeals and replaces all fees levied by the city in conflict with this fee schedule, save and except International Code related fees listed in the respective International Code ordinance(s), latest adopted, including any listed fees in said codes' appendices included by reference under such respective ordinances, which are wholly contained in separate ordinances. Said repeal and replacement shall be effective as of the effective date under section A1.005.

(Ordinance 09-27-21C, pt. 2, adopted 9/27/2021)

§ A1.003. Future amendments.

The city council hereby authorizes amendments to the fee schedule by minute order of the city council.

(Ordinance 09-27-21C, pt. 4, adopted 9/27/2021)

§ A1.004. Resolution of conflicting ordinances.

In the event of a conflict or inconsistency between this fee schedule and any other code or ordinance of the city, save and except the provisions of the respective International Code ordinances not specifically incorporated herein.[TEXT MISSING][??] Nothing adopted herein is intended to, in any way, nor shall any such provision be deemed to supersede or control over the provisions of the respective International Code ordinances not modified by this ordinance.

(Ordinance 09-27-21C, pt. 5, adopted 9/27/2021)

§ A1.005. Effective date.

This fee schedule shall take effect on October 1, 2021.

(Ordinance 09-27-21C, pt. 6, adopted 9/27/2021)

**ARTICLE A2.000
GENERAL FEES**

§ A2.001. General Fees.

| | |
|--|-----------------|
| Copy fees - Standard | |
| (8-1/2" x 11") - Black & white | \$0.25 per page |
| (8-1/2" x 11") - Color | \$0.35 per page |
| Copy fees - Non-standard | |
| (8-1/2" x 14") - Black & white | \$0.25 per page |
| (8-1/2" x 14") - Color | \$0.75 per page |
| (11" x 17") - Black & white | \$0.75 per page |
| (11" x 17") - Color | \$1.00 per page |
| Specialty paper (mylar, blueprint, blue line, photographic) | Actual cost |
| Other non-standard size pages or documents (i.e., maps, books) | Actual cost |
| Electronic media fees | |
| CD ROM | \$1.00 each |
| DVD (digital video disc) | \$3.00 each |
| Audio cassette | \$1.00 each |
| Fax fees | |
| Local | \$0.10 per page |
| Long distance (Area Code 512) | \$0.10 per page |

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| Miscellaneous fees | |
| Notary service fee | \$6.00 initial signature \$1.00 each additional signature |
| Credit card processing fee - City, utilities, other | \$3.00 or 3% per transaction |
| Credit card processing fee - Municipal court | 5% per transaction |
| Public information request. All public information requests: In accordance with current guidelines adopted by the state attorney general’s office or pursuant to chapter 552 of the Texas Government Code. | |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

**ARTICLE A3.000
ANIMAL CONTROL**

§ A3.001. Animal Control.

| | |
|---|---|
| Impoundment fee | Actual cost per third-party contractor, as approved by city council |
| Disposition of dogs or cats | Actual cost of veterinarian clinic performing procedure |
| Registration/possession of registered dangerous dog | Cost per state law |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

**ARTICLE A4.000
MUNICIPAL COURT FEES**

§ A4.001. Municipal Court Fees.

| | |
|---|--|
| Time payment fee | \$15.00 assessed following the 31st day after final judgment |
| 2-week extension to pay in full | \$0.00; \$25.00 additional time-payment fee for failure to comply with plan |
| Limited time payment plan - paid within 120 days from payment plan initiation | \$25.00 for each pending case; \$25.00 additional time-payment fee for failure to comply with plan |
| Indigency hearing | \$0.00; \$15.00 additional time-payment fee for failure to comply with plan |
| Expired license plate (registration) - Compliance dismissal | \$20.00 |

| | |
|---|--|
| Expired inspection certificate - Compliance dismissal | \$20.00 |
| Expired driver's license - Compliance dismissal | \$20.00 |
| Fail to change address/name on driver's license - Compliance dismissal | \$20.00 |
| Violation of driver's license restriction - Compliance dismissal | \$10.00 |
| Appeal fee - All other, except dangerous dog | \$100.00 bond or double amount of fine + court costs adjudged + \$25.00 clerk's record preparation |
| Appeal fee - Dangerous dog | \$10,000.00 bond |
| Arrest fee | \$5.00 |
| Failure to appear fee | \$25.00 + \$30.00 additional administrative fee under contract with state department of public safety, if applicable |
| State traffic fee | \$50.00 |
| Local traffic fee | \$3.00 |
| Warrant fee | \$50.00 |
| Child safety fund | \$25.00 |
| Local truancy and prevention fee [Local truancy prevention and diversion fee][??] | \$5.00 |
| Building security fee | \$4.90 |
| Technology fund | \$4.00 |
| Municipal jury fund | \$0.10 |
| State consolidated fee | \$62.00 |
| Dishonored check fee | \$30.00 |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

**ARTICLE A5.000
BUILDING AND DEVELOPMENT RELATED FEES**

§ A5.001. New construction permit fees.

| | |
|---|--|
| Building permit (based on R1: lot size, 6,000; sq. ft. living, 1,00 [1,000][?]; front, 15 to 25 ft.; side, 5 ft.; st. side, 15 ft.; rear, 15 to 25 ft. / R-1A: lot size, 7,000; sq. ft. living, 1,700; front, 15 to 25 ft.; side, 10 ft.; st. side, 15 ft.; rear, 15 to 25 ft.) | \$15.00 + \$5.00 per \$1,000.00 valuation; max. cap of \$400,000.00, or \$2,000.00 initial building fee |
| Temporary electric (service) pole permit | \$75.00 |
| Plumbing rough-in permit | \$75.00 |
| Foundation permit | \$75.00 |
| Framing, electric, plumbing H&A (FEP) | \$150.00 |
| Insulation, energy compliance | \$75.00 |
| Certificate of occupancy (C/O) | \$75.00 |
| Temporary final electric | \$75.00 |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.002. Remodel permit fees.

| | |
|--|---|
| Remodel permit (based on R1: lot size, 6,000; sq. ft. living, 1,00 [1,000][?]; front, 15 to 25 ft.; side, 5 ft.; st. side, 15 ft.; rear, 15 to 25 ft. / R-1A: lot size, 7,000; sq. ft. living, 1,700; front, 15 to 25 ft.; side, 10 ft.; st. side, 15 ft.; rear, 15 to 25 ft.) | \$15.00 + \$5 per \$1,000.00 valuation; max. cap of \$400,000.00, or \$2,000.00 initial building fee |
| Frame permit | \$75.00 |
| Electric permit | \$75.00 |
| Plumbing permit | \$60.00 |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.003. Modular home permit fees.

| | |
|--------------------------------|--|
| Modular home permit | \$15.00 + \$5.00 per \$1,000.00 valuation; max. cap of \$400,000.00, or \$2,000.00 initial building fee |
| Certificate of occupancy (C/O) | \$75.00 |

§ A5.003

FEE SCHEDULE

§ A5.006

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| Temporary final electric permit | \$75.00 |
|---------------------------------|---------|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.004. Moving permit fees.

| | |
|----------------------------|--|
| Building (any kind) moving | As approved by city council + Additional costs incurred by the police department and utility/public works department |
|----------------------------|--|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.005. Swimming pool permit fees.

| | |
|-----------------------------------|---|
| Swimming pool permit | \$15.00 + \$5.00 per \$1,000.00 valuation; max. cap of \$400,000.00, or \$2,000.00 initial building fee |
| Electric permit | \$60.00 |
| Plumbing permit | \$60.00 |
| Final permit (completion of pool) | \$75.00 |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.006. New and existing residential construction inspection fees.

| | |
|--|---------|
| Temporary electric (service) pole inspection | \$35.00 |
| Plumbing rough-in inspection | \$55.00 |
| Foundation (slab or piers) inspection | \$55.00 |
| Framing, electric, mechanical, plumbing and energy (FEMP&E) inspection | \$80.00 |
| Gypsum nailing inspection | \$55.00 |
| Insulation inspection | \$55.00 |
| Sewer drain (yard line) inspection | \$35.00 |
| Water line (yard line) inspection | \$35.00 |
| Gas rough (framing stage) inspection | \$55.00 |
| Gas yard line (outside) inspection | \$55.00 |
| Gas test (after the final, prior to final C/O) inspection | \$55.00 |
| Temporary final services (set electrical meter) inspection | \$35.00 |

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|---|---|
| Temporary final services duplex (set electrical meter) inspection | \$55.00 |
| Final certificate of occupancy (C/O) inspection | \$80.00 |
| Final certificate of occupancy (C/O) duplex inspection | \$105.00 |
| Pool bonding (prior to concrete) inspection | \$55.00 |
| Pool - Final inspection | \$55.00 |
| Sprinkler/irrigation system (rough) inspection | \$45.00 |
| Sprinkler/irrigation system (final) inspection | \$55.00 |
| Miscellaneous single inspection (electrical, plumbing, etc.) | \$55.00 |
| CSI backflow preventer re-inspection | \$50.00 1/2 of original fee with a minimum cost of \$30.00 |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.007. Manufactured housing placement inspection fees.

| | |
|---|---------|
| Electrical/sewer/water/gas (if applicable) inspection | \$70.00 |
| Permanent electrical pole inspection | \$35.00 |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.008. Remodel of existing dwelling inspection fees.

| | |
|--|---------|
| Foundation inspection | \$55.00 |
| Electrical inspection | \$55.00 |
| Plumbing inspection | \$55.00 |
| Framing inspection | \$55.00 |
| Framing/electrical/plumbing (FEP) inspection | \$70.00 |
| Framing/electrical/mechanical/plumbing (FEMP) inspection | \$80.00 |
| Mechanical inspection | \$55.00 |
| Gas rough inspection | \$55.00 |
| Gas test inspection | \$55.00 |
| Final inspection | \$55.00 |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.009. Modular home/mobile home inspection fees (conveyance).

| | |
|--|--|
| Mobile home inspection (prior to sale of property) | \$125.00, required prior to sale of property |
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(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.010. Miscellaneous inspection fees.

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| Unsafe structure/property condemnation | \$105.00 |
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(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.011. Commercial inspection fees.

| | |
|---|---|
| Plan review (dependent on size of project) | \$ varies, amount to be approved by city council prior to commencement of services |
| Individual inspections (dependent on size of project) | \$ varies, amount to be approved by city council prior to commencement of services |
| Re-inspections | \$ varies, amount to be approved by city council prior to commencement of services |
| Holidays and weekend inspections | \$40.00 added to costs of commercial inspections, of any type (i.e., plan review, individual) |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.012. Conditional use/special use permit fees.

| | |
|---|---------|
| Conditional use permit (zoning commission rec.) | \$25.00 |
| Special use permit (issued by city council) | \$25.00 |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.013. Sexually oriented business license application and permit fees.

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| Application fee (initial license), owning; ownership interest or control of property of business location | \$2,500.00 |
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§ A5.013

HOLLAND CODE

§ A5.015

| | |
|--|--|
| Permit request fee (conditional use to operate), business individually owned (“applicant”) | Initial license fee + \$2,500.00 (nonrefundable), initial, renewal or transfer + \$750.00 (nonrefundable), initial application only for city conducted land survey + \$25.00 (additional fee) for each applicant identified after permit issuance |
| Initial permit request fee, other than individually owned business (“operator”) | Initial license fee + \$2,500.00 (nonrefundable), initial, renewal or transfer, per owner having greater than a 10% ownership interest in the business + \$750.00 (nonrefundable), initial application only for city conducted land survey + \$25.00 (additional fee) for each applicant identified after permit issuance |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.014. Driveway permit fee.

| | |
|-----------------------|------------------------|
| Driveway construction | As set by city council |
|-----------------------|------------------------|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.015. Street and right-of-way permit fees.

| | |
|--|--|
| Construction (construction activities, other than excavations in right-of-way or streets) | \$250.00 + Other permit fees + Engineering fees + Other professional fees + \$50.00 if issued; paid per month during permit duration, in advance prior to issuance for purposes of inspecting the site during the construction process |
| Excavation (drilling, boring, cutting or otherwise any excavation of any portion of right-of-way or streets) | \$250.00 + Other permit fees + Engineering fees + Other professional fees + \$50.00 if issued; paid per month during permit duration, in advance prior to issuance for purposes of inspecting the site during the excavation process |
| Professional services | Reimbursed, all reasonable costs for inspection, plan review or any other reasonable overview or action by engineer or other professional |

§ A5.015

FEE SCHEDULE

§ A5.018

| | |
|--|---|
| Plumbing | Estimated time for inspection multiplied by 1.2 times the cost per hour of plumbing inspector, paid prior to permit issuance |
| Electrical | Estimated time for inspection multiplied by 1.2 times the cost per hour of electrical inspector, paid prior to permit issuance |
| Certificate of occupancy (permanent structure to occupy any right-of-way or streets) | \$1.00 per year, per linear foot of right-of-way or street occupied, paid in advance annually from original date of issuance of certificate of occupation |
| Temporary obstruction of the right-of-way | \$100.00 per day of obstruction |
| Appeals from permit revocation or other action of building inspector | \$100.00 |

(Ordinance 3-13-00, sec. 4, adopted 3/13/2000; Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.016. Sign license fee.

| | |
|-----------------------------|---|
| Install, erect and maintain | \$100.00 per year, payable by the 1st of January, each year |
|-----------------------------|---|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.017. Sign permits.

| | |
|--------------------------|--------------------|
| 40 sq. ft. and less | \$25.00 |
| 41 sq. ft. to 60 sq. ft. | \$50.00 |
| 61 sq. ft. and larger | \$1.00 per sq. ft. |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.018. Zoning changes.

| | |
|----------------------------|--|
| Zoning of annexed property | \$250.00 + Engineer review cost + Attorney review cost + Current USPS costs |
|----------------------------|--|

| | |
|----------------------|--|
| Rezoning of property | \$250.00 + Engineer review cost + Attorney review cost + Current USPS costs |
|----------------------|--|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.019. Subdivision plan review.

| | |
|--|--|
| New construction - Residential | \$0.13 per sq. ft. + Plan review and inspection fee Remodel residential: 0-1,000 sq. ft., \$85.00 Each additional 1,000 sq. ft., \$25.00 |
| New commercial | \$0.50 per sq. ft. + Plan review and inspection fee Fire code plan review: \$500.00 Remodel commercial: 0-1,000 sq. ft., \$250.00 Additional 1,000 sq. ft., \$100.00 |
| Miscellaneous | Irrigation: \$45.00 Fence: \$45.00 Roof: \$45.00 Curb cut: \$45.00 Demo: \$75.00 Accessory building: \$7.00 |
| Miscellaneous - Plumbing | \$35.00, basic fee + Itemized list (each fixture): \$10.00 + Water heater, gas test: \$10.00 + Water/sewer yard line: \$10.00 |
| Miscellaneous - Mechanical | \$35.00, basic fee + Heating unit, AC: \$10.00 + Commercial refrigeration, vent-a-hood: \$15.00 |
| Miscellaneous - Electrical | \$35.00, basic fee + Service 200 amps or less: \$10.00 + Each additional 110 or 220 circuit: \$5.00@ + Manufactured home service: \$20.00 + Solar panels: \$20.00 |
| Residential platting fee filing | \$200.00, preliminary plat \$200.00, final plat |
| Commercial platting fee filing | \$200.00, preliminary plat \$200.00, final plat |
| City engineer review based on current rate | \$150.00 per hour |
| City attorney review based on current rate | \$225.00 per hour |

USPS costs are based on current first-class certified mail rate.

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A5.020. Installation of mobile home.

- (a) Application for specific use permit. The application fee for a specific use permit for a mobile home, as provided by article 4.05 of the Code of Ordinances, is \$75.00.
- (b) Utility connection inspections. There shall be a \$50.00 inspection fee for each utility connection inspection.

(Ordinance 4-BU-N, secs. 2.3, 2.6, adopted -/-/1994)

**ARTICLE A6.000
MISCELLANEOUS FEES**

§ A6.001. Abandoned and junked vehicle fees.

| | |
|---|---|
| Abandoned and junked vehicle storage fees | As approved by city council or in the absence thereof, fees set by the city police department + \$5.00 fee for abandoned vehicle report by garagekeeper, if applicable |
|---|---|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

**ARTICLE A7.000
BUSINESS RELATED FEES**

§ A7.001. Peddler and solicitor permit fees.

| | |
|-----------------------------|---|
| Peddler or solicitor permit | \$5.00 per day \$10.00 per week \$25.00 per month \$50.00 per every three months \$75.00 per every six months \$100.00 per year or every 12 months |
|-----------------------------|---|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

**ARTICLE A8.000
UTILITY FEES**

§ A8.001. Water and wastewater (sewer) utility service security deposit.

| | |
|--|--|
| Water utility service security deposit | \$250.00 per residential or commercial service customer account |
| Sewer utility service security deposit | \$250.00 per residential or commercial service customer account |
| Unclaimed security deposit | \$25.00 annually, not to exceed balance of unclaimed utility deposit |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.002. Tap fees, water and wastewater (sewer).

| | |
|---|------------|
| Water tap: Standard “residential” connection | \$2,000.00 |
| Water tap: Non-standard residential, commercial and all other connections | \$2,000.00 |
| Wastewater (sewer) tap: Residential connection | \$2,000.00 |
| Sewer tap: Nonresidential; commercial connection | \$2,000.00 |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.003. Line extension and street cutting fees.

Applicable to connections to property both inside and outside the corporate city limits.

| | |
|---|--|
| Standard connection location - Water and wastewater (sewer) | Cost per tap fees for water and wastewater (sewer) |
|---|--|

| | |
|--|--|
| <p>Non-standard connection location - Water and wastewater (sewer)</p> | <p>(a) Paid directly by owner/developer of a subdivision to contracted contractor for installation, construction and extension of any water or sewer line to make a non-standard connection a “standard connection” and obtain receipt and release from contractor in favor of city. + Applicable engineering fees + Applicable inspection fees (b) If not paid for by the owner/developer of a subdivision directly, reasonable cost and expenses for installation, construction or extension to provide tap at a non-standard location or to extend such lines to a standard location, shall be: (i) Equal to the difference between the cost of making the tap at a standard location and the cost of making the tap at the non-standard location; or (ii) Difference between the cost of making the tap at a standard location and the costs incurred for the work and construction to extend lines to a point or location that is a standard location for the tap.</p> |
|--|--|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.004. Private water well permit fees.

| | |
|---|-----------------|
| <p>Private water well permit</p> | <p>\$100.00</p> |
| <p>Re-working private water well permit</p> | <p>\$100.00</p> |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.005. Capital recovery fees.

| | |
|---------------------------|-----------------|
| <p>Water</p> | <p>\$500.00</p> |
| <p>Wastewater (sewer)</p> | <p>\$500.00</p> |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.006. City street maintenance and repair utility fee.

| | |
|--|---|
| City street maintenance and repair utility fee | \$1.00 per month charged to residential and commercial utility bill |
|--|---|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.007. Rates for water service.

| | |
|---|---|
| Residential rate | \$34.82 minimum monthly charge - 0 to 2,000 gallons + \$6.54 per thousand - 2,000 to 4,000 gallons + \$7.54 per thousand- 5,000 and above gallons |
| Commercial rate (single and master meter) | Same as “residential rate” for single commercial unit, business establishment, customer or entity receiving services from a meter |
| School irrigation rate | \$33.10 minimum monthly charge - first 3,000 gallons + \$0.80 for each 1,000 gallons of water metered over 3,000 gallons and proportionate share thereof + Cost charged to city by Central Texas Water Supply Corporation for one monthly billing cycle |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.008. Rates for wastewater (sewer) service.

| | |
|----------------------|--|
| Residential tap user | \$32.50 minimum monthly charge + \$0.40 per 1,000 gallons of water used (“water usage fee”), calculated based on the average water usage of the previous December, January and February; also applicable to residential tap users who did not have previous year service; water usage fee is recalculated each year, with effective change made each March. |
| Commercial tap user | \$32.50 minimum monthly charge + \$0.40 per 1,000 gallons of water used (“water usage fee”), calculated based on the average water usage of the previous December, January and February; water usage fee is recalculated each year, with effective change made each March. |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.009. Meter test fee.

| | |
|----------------|---|
| Meter test fee | \$15.00 for testing services, if customer-requested meter test is found to be registering less than 101% (“non-fast”) |
|----------------|---|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.010. Rates for solid waste (trash) services.

| | |
|------------------------------------|--|
| Residential services | \$25.00 minimum monthly charge per residential unit + 20% + Applicable tax |
| Commercial and industrial services | \$25.00 minimum monthly charge per container, volume and frequency of service + 20% + Applicable tax |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.011. Waterworks system damage fees.

| | |
|---|---|
| Damage or injury to waterworks system | Actual repair charges + \$50.00 damage fee |
| Repair of damage to meter or lock box | Actual repair charges + \$50.00 damage fee |
| Repair of damage to line, pipe or appurtenance - Private property owner | Actual repair charges to customer who owns, rents or controls such private property |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.012. Drought contingency fees.

| | |
|---|--|
| Stage 6 response - Water allocation surcharge fees: Single-family residential customers | \$5.00 for the first 1,000 gallons over allocation \$10.00 for the second 1,000 gallons over allocation \$20.00 for the third 1,000 gallons over allocation \$20.00 for each additional 1,000 gallons over allocation |
|---|--|

| | |
|--|---|
| Stage 6 response - Water allocation surcharge fees: Master-metered multi-family residential customers | \$5.00 for the first 1,000 gallons over allocation up through 1,000 gallons for each dwelling \$10.00 thereafter for each additional 1,000 gallons over allocation up through a second 1,000 gallons for each dwelling \$20.00 thereafter for each additional 1,000 gallons over allocation up through a third 1,000 gallons for each dwelling \$20.00 for each additional 1,000 gallons over allocation |
| Stage 6 response - Water allocation surcharge fees: Commercial customers with allocation between 12,000 and 18,000 gallons per month | \$5.00 for the first 1,000 gallons over allocation \$10.00 for the second 1,000 gallons over allocation \$20.00 for the third 1,000 gallons over allocation \$20.00 for each additional 1,000 gallons over allocation |
| Stage 6 response - Water allocation surcharge fees: Commercial customers with allocation 18,001 gallons per month or more | 0.10 times the block rate for each 1,000 gallons in excess of the allocation up through 5% above allocation 0.25 times the block rate for each 1,000 gallons from 5% through 10% above allocation 0.50 times the block rate for each 1,000 gallons from 10% through 15% above allocation 0.75 times the block rate for each 1,000 gallons more than 15% above allocation |
| Reconnection fee when service discontinued for violation of water use restrictions | \$1,000.00 |

(Ordinance 9-11-00 (ord. 3), sec. X, adopted 9/11/2000; Ordinance 4-23-18, sec. X, adopted 4/23/2018; Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.013. Utility account late charge fee.

| | |
|---------------------------------|---------|
| Utility account late charge fee | \$15.00 |
|---------------------------------|---------|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.014. Utility account termination of services and charges for disconnection and reconnection.

| | |
|---|---|
| Disconnection charge - Administrative fee | \$50.00 per occurrence of city personnel to disconnect or attempt to disconnect water service |
| Termination at owner's request | \$50.00 reconnect fee payable at the time of continuation of services |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

§ A8.015. Utility payment returned check fee.

| | |
|------------------------------------|---|
| Utility payment returned check fee | \$25.00 for each check returned to the city without payment |
|------------------------------------|---|

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

**ARTICLE A9.000
PARKS AND RECREATION**

§ A9.001. Kuhlmann Civic Center Fees.

| | |
|------------------------|--|
| Daily facility rental | \$250.00 per day (12:00 a.m. - 11:59 p.m.) + \$35.00 per hour (\$140.00 minimum) for city police department + \$250.00 cleaning and damage deposit (refundable pursuant to rental agreement terms) + \$25.00 late fee for every 15 minutes over contracted rental time |
| Hourly facility rental | \$125.00 per day (4-hour base rental) + \$25.00 per additional hour (max. 6-hour rental) + \$35.00 per hour (\$140.00 minimum) for city police department + \$250.00 cleaning and damage deposit (refundable pursuant to rental agreement terms) + \$25.00 late fee for every 15 minutes over contracted rental time |

(Ordinance 09-27-21C, exh. A, adopted 9/27/2021)

Appendix B

ORDINANCE DISPOSITION TABLE

§ B.001. Ordinance Disposition Table.

§ B.001. Ordinance Disposition Table.

This table shows the location or gives the disposition of the ordinances within the Holland Code of Ordinances. The abbreviation “NIC” means the ordinance is not included in this code, though not necessarily repealed. In the “Supp. No.” column, the letters “CA” indicate the ordinance was published in the original code as adopted. When an ordinance has been added as part of a code supplement, the supplement number will be added accordingly.

| Ord. No. | Date | Description | Disposition | Supp. No. |
|--------------|----------------|--|--|-----------|
| | —/—/— | Public utility commission jurisdiction | Null and void per city | |
| 9-H&S-V | —/—/— | Destruction of trees and defacement of buildings | Null and void per city | |
| | —/—/— | Street vacation | NIC | |
| 16-1/2-TAX-Z | —/—/— | Tax levy | NIC | |
| 16-1/2-TAX-Y | —/—/— | Late tax payment penalties | Unsigned, undated Superseded by state law | |
| 16-1/2-TAX-N | —/—/— | Taxation of automobiles, 1980 | Superseded by Ord. 16-1/2-TAX-M | |
| 2-AD-D | —/—/— | Texas Power and Light fuel cost tariff schedule | NIC | |
| 2-AD-N | —/—/— | Texas Power and Light rates | NIC | |
| 2-AD-Z | 6/8/1915 | Franchise | NIC | |
| 9-H&S-Z | 12/19/ 1920 | Offenses affecting public health | | |
| | | § 1 Offensive animal pens or enclosures | § 7.01.001 | |
| | | § 2 Offensive drains or sewers | § 7.01.002 | |
| 9-H&S-Y | 12/19/ 1920 | Abatement of certain nuisances | § 7.01.004 | |
| 9-H&S-X | 12/19/ 1920 | Prevention of spread of infectious and contagious diseases | § 7.01.003 | |
| 9-H&S-W | 8/18/1921 | Sanitary keeping of toilets | § 7.01.005 | |
| 17-TRA-Y | 12/19/ 1920 | Disturbances of the peace and affrays | § 8.01.001 | |
| 17-TRA-X | 8/18/1921 | Train speeds | § 11.01.002 | |
| 3-A&F-Z | 5/14/1923 | Yearly dog tax | Superseded by Ord. adopted 9/25/73 | |

§ B.001

HOLLAND CODE

§ B.001

| Ord. No. | Date | Description | Disposition | Supp. No. |
|--------------|------------|--|--|-----------|
| 6-F-Z | 3/9/1925 | Office of fire marshal | | |
| | | § 1 Office created | § 6.02.001 | |
| | | § 2 Duty to investigate fires | § 6.02.002 | |
| | | § 3 Duty when evidence indicates arson | § 6.02.003 | |
| | | § 4 Power to summon witnesses and require production of evidence | § 6.02.004 | |
| | | § 5 Misconduct of witnesses | § 6.02.005 | |
| | | § 6 Investigations may be private | § 6.02.006 | |
| | | § 7 Authority to enter premises where fire has occurred | § 6.02.007 | |
| | | § 8 Inspections for fire hazards | § 6.02.008 | |
| | | § 9 Maintaining dangerous building or premises | § 6.02.009 | |
| | | § 10 Maintaining dangerous equipment or storage | § 6.02.010 | |
| | | § 11 Order required before prosecution | § 6.02.011 | |
| | | § 12 Recovery of penalties | § 6.02.012 | |
| | | § 13 Continuing violations | § 6.02.013 | |
| | | § 14 Enforcement | § 6.02.014 | |
| 6-F-Y | 2/24/1930 | Firefighting equipment and hazards | | |
| | | § 1 Driving over or injuring fire hose | § 6.01.001(a) | |
| | | § 2 Streets to be cleared when alarm is sounded | § 6.01.002(a) | |
| | | § 3 Unauthorized use of fire trucks and equipment | § 6.01.003(a) | |
| | | § 4 False alarms | § 6.01.004(a) | |
| | | Penalty | §§ 6.01.001(b), 6.01.002(b), 6.01.003(b), 6.01.004(b) | |
| | 3/12/1945 | Franchise | NIC | |
| 16-1/2-TAX-X | 8/12/1946 | Tax levy | NIC | |
| 16-1/2-TAX-W | 8/11/1947 | Tax levy | NIC | |
| 16-1/2-TAX-V | 8/9/1948 | Tax levy | NIC | |
| 16-1/2-TAX-U | 8/8/1949 | Tax levy | NIC | |
| | 10/13/1952 | Amends franchise | NIC | |
| 19-WS-Z | 9/8/1953 | Amends water rates | Amnd. by Ord. 19-WS-U | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|--------------|----------------|---|--|-----------|
| 12-OF-Z | 6/14/1965 | Arson reward | § 6.01.005 | |
| 16-1/2-TAX-S | 2/4/1966 | Tax levy | NIC | |
| 17-TRA-W | 10/16/ 1967 | FM 1123 speed limit | NIC | |
| | 12/12/ 1969 | Renews franchise | NIC | |
| 16-SS-Z | 3/23/1970 | Vacation of street (portion of Milan) | NIC | |
| 19-WS-Y | 2/2/1971 | Connection to sewage system mandatory | Superseded by Ord. 8-313 (ord. 99) | |
| 17-TRA-U | 5/10/1971 | Parking | § 11.03.001 | |
| 17-TRA-T | 5/10/1971 | Traffic signal maintenance agreement | NIC | |
| 17-TRA-V | 5/10/1971 | SH 95 speed limit | NIC | |
| 17-TRA-S | 6/1/1971 | Vehicle mufflers | § 11.01.003 | |
| 8-GAR-Z | 11/9/1971 | Garbage and rubbish | Superseded by Ords. 8-313 (ord. 99) and 10-15-12 | |
| 2-AD-V | 1/4/1972 | Texas Power and Light rates | NIC | |
| 19-WS-X | —/—/ 1973 | Industrial wastes | Null and void per city | |
| | 9/25/1973 | Animals and fowls | Superseded by Ord. 3-A&F-X | |
| 2-AD-U | 12/11/ 1973 | Texas Power and Light rates | NIC | |
| Resolution | 2/12/1974 | Adopts title 28 Vernon's Annotated Civil Statutes | Superseded by Res. 14-PER-W | |
| | 8/13/1974 | Amends garbage ordinance; disconnection of water and garbage service for nonpayment | Superseded by Ord. 8-313 (ord. 99) | |
| 3-A&F-X | 3/11/1975 | Animal control | Superseded by Ord. 3-A&F-W | |
| 14-PER-Z | 3/24/1975 | Office of city secretary | Amnd. by Ord. 1-17-00 (ord. 2) | |
| 14-PER-Y | 3/24/1975 | Judge of municipal court | Superseded by Ord. adopted 6/22/2020 | |
| 8-GAR-Y | 7/8/1975 | Weeds and grass | Superseded by Ord. 8-GAR-W | |
| 16-1/2-TAX-R | 7/8/1975 | Board of equalization 1975 | NIC | |
| 2-AD-Q | 7/8/1975 | Texas Power and Light rates | NIC | |
| 19-WS-V | 8/12/1975 | Amends sewer rates | Amnd. by Ord. 8-31-99D | |
| 19-WS-U | 8/12/1975 | Amends water rates | Amnd. by Ord. 19-WS-S | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|--------------|------------|---|--------------------------------------|-----------|
| 16-1/2-TAX-P | 8/—/1976 | Tax levy | NIC | |
| 16-1/2-TAX-Q | 5/11/1976 | Board of equalization , 1976 | NIC | |
| 19-WS-S | 8/10/1976 | Amends water rates | Amnd. by Ord. 19-WS-R | |
| 9-H&S-U | 10/4/1976 | Septic tank regulation by county | Superseded by Ord. 29-2020 | |
| 19-WS-T | 10/4/1976 | Approves agreement with county to regulate septic tanks | Superseded by Ord. 29-2020 | |
| 19-WS-R | 1/25/1977 | Amends water rates | Amnd. by Ord. 19-WS-Q | |
| 4-BU-T | 4/12/1977 | Dedication and restrictions of addition to city | NIC | |
| 2-AD-P | 5/10/1977 | Texas Power and Light rates | NIC | |
| 17-TRA-R | 8/9/1977 | Traffic-control devices | | |
| | | § 1 Conformance with state manual | § 11.02.001 | |
| | | § 2 Obedience | § 11.02.002 | |
| | | § 3 Exceptions for authorized emergency vehicles | § 11.02.003 | |
| | | § 4 Unauthorized devices | § 11.02.004 | |
| | | § 5 Damaging, altering or removing | § 11.02.005 | |
| | | § 6 Installation | § 11.02.006 | |
| | | § 7 Evidence of validity | § 11.02.007 | |
| | | § 8 Penalty | § 11.02.008 | |
| 2-AD-O | 8/9/1977 | Extends franchise | NIC | |
| 8-GAR-X | 11/8/1977 | Refuse collection and disposal contract | NIC | |
| 16-1/2-TAX-O | 2/14/1978 | Authorizes county to act as tax assessor-collector | § 2.10.031 | |
| 20-FLO-Z | 3/14/1978 | Flood damage prevention | Rescinded by Ord. 20-FLO-Y | |
| 1-G-Z | 4/11/1978 | Declares general election results | NIC | |
| 14-PER-X | 5/10/1978 | Job descriptions and benefits | NIC | |
| 2-AD-N | 5/25/1978 | Texas Power and Light rate schedules | NIC | |
| 19-WS-Q | 7/11/1978 | Amends water rates | Amnd. by Ord. 8-31-3 (ord. 99A) | |
| 2-AD-M | 8/29/1978 | Electricity and gas sales tax | § 2.10.062 | |
| 1-G-Y | 4/10/1979 | Declares general election results | NIC | |
| 2-AD-K | 10/23/1979 | Fair housing | Superseded by Ord. adopted 7/24/2000 | |
| 2-AD-I | 5/13/1980 | Texas Power and Light rates | NIC | |
| 2-AD-H | 3/16/1981 | Texas Power and Light rates | NIC | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|---------------|------------|---|---|-----------|
| 2-AD-G | 12/8/1981 | Lone Star service rates | NIC | |
| 2-AD-C | 5/11/1982 | Bingo gross receipts tax | § 2.10.091 | |
| | 3/13/1984 | Texas Utilities rates | NIC | |
| Res. 14-PER-W | 12/15/1984 | Accepts Title XXVIII of Vernon's Annotated Civil Statutes | § 2.01.001 | |
| 20-FLO-Y | 2/10/1987 | Flood damage prevention | | |
| | | Art. 1 Statutory authorization, findings of fact, purpose and methods | § 4.04.001 | |
| | | Art. 2 Definitions | § 4.04.002 | |
| | | Art. 3 General provisions | § 4.04.003 | |
| | | Art. 4 Administration | § 4.04.004 | |
| | | Art. 5 Provisions for flood hazard reduction | § 4.04.005 | |
| 16-1/2-TAX-M | 2/10/1987 | Taxation of automobiles, 1987 | Superseded by Ord. 16-1/2-TAX-L | |
| 4-BU-S | 8/11/1987 | Adopts building regulations; housing standards | Superseded by Ord. 071612 | |
| 8-GAR-W | 8/11/1987 | Accumulations, vegetation and junked vehicles | Superseded by Ords. 8-VAC-Y and 01-14-02 (ord. 2) | |
| 4-BU-R | 8/24/1987 | Adopts mobile home ordinance | Rpld. by Ord. 4-BU-N Incomplete | |
| 14-PER-T | 8/24/1987 | City secretary to serve as municipal court clerk | Amnd. by Ord. 1-17-00 (ord. 2) | |
| 14-PER-V | 8/24/1987 | Creates municipal court | Superseded by Ord. adopted 6/22/2020 | |
| | -/-/1989 | Jurisdiction over electric utility | § 12.01.002 | |
| 16-1/2-TAX-L | 2/14/1989 | Taxation of automobiles | § 2.10.033 | |
| 3-A&F-W | 2/12/1991 | Animal control | Superseded by Ord. 4-12-2 (ord. 99) | |
| 7-SHD-Z | 5/14/1991 | Highway maintenance agreement | NIC | |
| 17-TRA-P | 4/23/1992 | Parking restrictions | § 11.03.002 | |
| 17-TRA-Q | 11/9/1992 | Public services board | § 11.03.031 | |
| 4-BU-P | 12/14/1992 | Amends mobile home fee | Rpld. by Ord. 4-BU-N | |
| 2-AD-A | 5/17/1993 | Amends electric franchise | NIC | |
| 4-BU-N | —/—/1994 | Repeals Ords. 4-BU-P and 4-BU-R; mobile homes | Unsigned/undated | |
| | | Art. I. In general | | |
| | | 1.1 Conflicts | NIC | |
| | | 1.2 Validity | NIC | |
| | | 1.3 Liability | § 4.05.001 | |
| | | 1.4 Penalty | § 4.05.002 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
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| | | 1.5 Number and gender | NIC | |
| | | 1.6 Headings | NIC | |
| | | Art. II | | |
| | | 2.1 Specific use permit required | § 4.05.003 | |
| | | 2.2 Definitions | § 4.05.004 | |
| | | 2.3 Application for permit | §§ 4.05.005, A5.020(a) | |
| | | 2.4 Granting of permit | § 4.05.006 | |
| | | 2.5 Conditions of permit | § 4.05.007 | |
| | | 2.6 Utility connections | §§ 4.05.008, A5.020(b) | |
| | | 2.7 Expiration of permit | § 4.05.009 | |
| | | 2.8 Moving mobile home | § 4.05.010 | |
| 2-AD-AZ | 3/14/1994 | Records management | | |
| | | § 1 Definition of municipal records | § 2.08.001 | |
| | | § 2 Additional definitions | § 2.08.002 | |
| | | § 3 Municipal records declared public property | § 2.08.003 | |
| | | § 4 Policy | § 2.08.004 | |
| | | § 5 Designation of records management officer | § 2.08.005 | |
| | | § 6 Records management plan to be developed; approval of plan; authority of plan | § 2.08.006 | |
| | | § 7 Duties of records management officer | § 2.08.007 | |
| | | § 8 Duties and responsibilities of department heads | § 2.08.008 | |
| | | § 9 Records control schedules to be developed; approval; filing with state | § 2.08.009 | |
| | | § 10 Implementation of records control schedules; destruction of records under schedule | § 2.08.010 | |
| | | § 11 Destruction of unscheduled records | § 2.08.011 | |
| | 12/12/1994 | Lone Star Gas franchise | NIC | |
| 15-SUB-A | —/—/1996 | Subdivisions | Amnd. by Ord. 4-12-3 (ord. 99) | |
| 8-GAR-X | 4/15/1996 | Junked vehicles | Superseded by Ord. 01-14-02 (ord. 2) | |
| 8-VAC-Y | 4/15/1996 | Public nuisances | Superseded by Ords. 11-17-03 (ord. 1) and 071612 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
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| 4-22-96 | 4/22/1996 | Adopts Code of Ordinances | We did not receive all the chapters listed in this document | |
| | 7/6/1998 | Amends Ord. 8-VAC-Y and 8-GAR-X; nuisance appeal board hearing frequency | Superseded by Ords. 11-17-03 (ord. 1), 071612 and 01-14-02 (ord. 2) | |
| | 10/12/1998 | Amends Ords. 8-VAC-Y and 8-GAR-X; number of appeal board members | Superseded by Ords. 11-17-03 (ord. 1), 071612 and 01-14-02 (ord. 2) | |
| 4-12-2 (ord. 99) | 4/12/1999 | Animal control | Superseded by Ord. 071706-1 | |
| 4-12-3 (ord. 99) | 4/12/1999 | Amends Ord. 15-SUB-A; subdivision ordinance | | |
| | | Art. I General | | |
| | | § 1 Definitions | § 9.02.001 | |
| | | § 2 Purpose | § 9.02.002 | |
| | | § 3 Authority | § 9.02.003 | |
| | | § 4 Jurisdiction | § 9.02.004 | |
| | | § 5 Policy | § 9.02.005 | |
| | | § 6 Application | § 9.02.006 | |
| | | § 7 Exemptions | § 9.02.007 | |
| | | § 8 Enforcement of regulations | § 9.02.008 | |
| | | §§ 9—19 Reserved | | |
| | | Art. II Procedure | | |
| | | § 20 General procedure | § 9.02.035 | |
| | | § 21 Concept plan | § 9.02.036 | |
| | | § 22 Preliminary plat | § 9.02.037 | |
| | | § 23 Construction plans | § 9.02.038 | |
| | | § 24 Final plat | § 9.02.039 | |
| | | § 25 Amended plats | § 9.02.040 | |
| | | § 26 Short form final plats | § 9.02.041 | |
| | | § 27 Vacation of undeveloped subdivision | § 9.02.042 | |
| | | §§ 28—39 Reserved | | |
| | | Art. III Design standards | | |
| | | § 40 Generally | § 9.02.071 | |
| | | § 41 Drainage improvements | § 9.02.072 | |
| | | § 42 Transportation improvements | § 9.02.073 | |
| | | § 43 Water utility improvements | § 9.02.074 | |
| | | § 44 Wastewater utility improvements | § 9.02.075 | |
| | | § 45 Blocks and lots | § 9.02.076 | |

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| | | § 46 Easements | § 9.02.077 | |
| | | § 47 Landscaping and screening | § 9.02.078 | |
| | | § 48 Park land dedication | § 9.02.079 | |
| | | §§ 49-59 Reserved | | |
| | | Art. IV Improvements | | |
| | | § 60 | § 9.02.111 | |
| | | §§ 61-69 Reserved | | |
| | | Art. V Administration | | |
| | | § 70 General | § 9.02.141 | |
| | | [§ 71 number skipped] | | |
| | | § 72 Variances | § 9.02.142 | |
| | | § 73 Conditions for issuing a building permit | § 9.02.143 | |
| | | § 74 Fees | § 9.02.144 | |
| | | § 75 Amendments | § 9.02.145 | |
| | | § 76 Violations | § 9.02.146 | |
| | | § 77 Enforcement | § 9.02.147 | |
| | | § 78 Amendment | § 9.02.148 | |
| | | § 79 Severability | § 9.02.149 | |
| | | § 80 Code of Ordinances | § 9.02.150 | |
| | | § 81 Effective date | § 9.02.151 | |
| | | § 82 Open meetings | § 9.02.152 | |
| 6-14-99 | 6/14/1999 | FM 2668 speed limit | NIC | |
| 8-16-99 | 8/16/1999 | Claims against city | | |
| | | § 1 Notification requirements | § 2.07.001 | |
| | | § 2 Suits | § 2.07.002 | |
| | | § 3 Service | § 2.07.003 | |
| | | § 4 Failure to notify | § 2.07.004 | |
| | | § 5 Waiver | § 2.07.005 | |
| 8-313 (ord. 99) | 8/31/1999 | Water, wastewater and solid waste policies and rates | | |
| | | Art. I Authority and definitions | | |
| | | § 1 Authority | § 12.02.001 | |
| | | § 2 Purpose | § 12.02.002 | |
| | | § 3 Findings of fact | NIC | |
| | | § 4 Definitions | § 12.02.003 | |
| | | Art. II Water and wastewater service | | |
| | | § 1 Mandatory connection to city system | § 12.02.031 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
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| | | § 2 Application for water connections | § 12.02.032 | |
| | | § 3 Connections and taps to water and wastewater system | § 12.02.033 | |
| | | § 4 Interconnections | § 12.02.034 | |
| | | [Art. III - number skipped] | | |
| | | Art. IV Deposits, rates and charges for service | | |
| | | § 1 Application for services | § 12.02.071 | |
| | | § 2 Tap fees | § 12.02.072 | |
| | | § 3 Security deposits and utility accounts | § 12.02.073 | |
| | | § 4 Rates for water service | § 12.02.074 | |
| | | § 5 Rates for wastewater service | § 12.02.075 | |
| | | § 6 Rates for solid waste services | § 12.02.076 | |
| | | § 7 Line extension and street cutting fees | § 12.02.077 | |
| | | § 8 No reduced rates or free service | § 12.02.078 | |
| | | § 9 Water and sewer committee | § 12.02.079 | |
| | | Art. V Billing and termination of services | | |
| | | § 1 Billing and payment for services | § 12.02.111 | |
| | | § 2 Late charges | § 12.02.112 | |
| | | § 3 Termination of service and charges for disconnection and reconnection | § 12.02.113 | |
| | | § 4 Minors | § 12.02.114 | |
| | | Art. VI Solid waste collection | | |
| | | § 1 Residential service | § 12.02.141 | |
| | | § 2 Commercial and industrial units | § 12.02.142 | |
| | | Art. VII Waterworks system | | |
| | | § 1 Damage or injury to waterworks system | § 12.02.171 | |
| | | § 2 Repair of damages | § 12.02.172 | |
| | | § 3 Penalty | § 12.02.184 | |
| | | Art. VIII General provisions | | |
| | | § 1 No service guarantee | § 12.02.271 | |
| 8-31-2 (ord. 99) | 8/31/1999 | Adopts budget, FY 99-00 | NIC | |
| 8-31-99 | 8/31/1999 | Tax levy, TY 1999 | NIC | |
| 10-11-99 | 10/11/1999 | Adopts annexation plan | § 9.01.003 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|-------------------|------------|--|--------------------------------------|-----------|
| 10-11-99 (ord. 2) | 10/11/1999 | Amends budget, FY 99-00 | NIC | |
| 1-17-00 | 1/17/2000 | Municipal court | Superseded by Ord. adopted 6/22/2020 | |
| 1-17-00 (ord. 2) | 1/17/2000 | City secretary | | |
| | | § 1 Findings | NIC | |
| | | § 2 Office of city secretary | § 2.04.031 | |
| | | § 3 Powers and duties of the city secretary | § 2.04.032 | |
| | | § 4 Ex officio city treasurer | § 2.04.033 | |
| | | § 5 Ex officio tax assessor and collector | § 2.04.034 | |
| 3-13-00 | 3/13/2000 | Excavation and cutting of city streets and rights-of-way | | |
| | | § 1 Findings of fact | NIC | |
| | | § 2 Definitions | § 10.04.001 | |
| | | § 3 Streets and right-of-way | § 10.04.002 | |
| | | § 4 Permits | §§ 10.04.003, A5.015 | |
| | | § 5 Bond and liability | § 10.04.004 | |
| | | § 6 City facilities and lands | § 10.04.005 | |
| | | § 7 Duties and responsibilities | § 10.04.006 | |
| | | § 8 Right to inspect | § 10.04.007 | |
| | | § 9 Costs | § 10.04.008 | |
| | | § 10 City rights reserved | § 10.04.009 | |
| | | § 11 Enforcement | § 10.04.010 | |
| | | § 12 Penalty | § 10.04.011 | |
| | | § 13 Court proceedings | § 10.04.012 | |
| | | § 14 Indemnity | § 10.04.013 | |
| | | § 15 Governmental immunity | § 10.04.014 | |
| 3-13-00 (ord. 2) | 3/13/2000 | Municipal court technology fund (per city) | Null and void per city Illegible | |
| 3-13-00 (ord. 3) | 3/13/2000 | Municipal court building security fund (per city) | Null and void per city Illegible | |
| 04-10-00 | 4/10/2000 | Duties, responsibilities and authority of mayor | Null and void per city Illegible | |
| | 7/24/2000 | Fair housing | | |
| | | § 1 Declaration of policy | § 1.02.031 | |
| | | § 2 Definitions | § 1.02.032 | |
| | | § 3 Interpretation and effect | § 1.02.033 | |
| | | § 4 Discrimination in the sale or rental of housing | § 1.02.034 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|-------------------|-----------|--|--------------------------------|-----------|
| | | § 5 Discrimination in housing financing | § 1.02.035 | |
| | | § 6 Discrimination in providing brokerage service | § 1.02.036 | |
| | | § 7 Unlawful intimidation | § 1.02.037 | |
| | | § 8 Exemptions and exclusions | § 1.02.038 | |
| | | § 9 Violations | § 1.02.039 | |
| | | § 10 Enforcement | § 1.02.040 | |
| 9-11-00 (ord. 3) | 9/11/2000 | Drought contingency plan | §§ 12.05.001—12.05.011, A8.012 | |
| 9-11-00 | 9/11/2000 | Tax levy, TY 2000 | NIC | |
| 9-11-00 (ord. 2) | 9/11/2000 | Adopts budget, FY 00-01 | NIC | |
| 3-12-01 | 3/12/2001 | Driveways and culverts | | |
| | | § 1 Driveway construction permit - required; application contents | § 10.03.001 | |
| | | § 2 Driveway permit application review; issuance or denial; appeal | § 10.03.002 | |
| | | § 3 Driveway permit fee; time limit | § 10.03.003 | |
| | | § 4 Minimum standards posted; special requirements | § 10.03.004 | |
| | | § 5 Driveway inspection; failure to comply | § 10.03.005 | |
| | | § 6 Driveways and culverts | § 10.03.006 | |
| | | § 7 Culvert maintenance | § 10.03.007 | |
| | | § 8 Deposit of debris on public property | § 10.03.008 | |
| | | § 9 Penalty | § 10.03.009 | |
| 5-11-01 | —/—/2001 | Municipal court fines and costs | Null and void per city | |
| 04-09-01 | 4/9/2001 | Water and wastewater department | § 12.01.001 | |
| 8-31-3 (ord. 99A) | 6/11/2001 | Amends Ord. 8-31-3 (ord. 99); water and solid waste rates | Amnd. by Ord. 8-31-99D | |
| 6-11-01 | 6/11/2001 | TXU rates | NIC | |
| 6-11-01 (ord. 2) | 6/11/2001 | Adoption and revision of personnel policies | § 2.04.001 | |
| 9-24-1 (ord. 1) | 9/24/2001 | Planning and zoning commission | | |
| | | § 1 Creation and purpose | § 2.03.031 | |
| | | § 2 Membership and appointment | § 2.03.032 | |
| | | § 3 Terms of office; filling of vacancies | § 2.03.033 | |
| | | § 4 Appointment of chairperson and vice-chairperson | § 2.03.034 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
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| | | § 5 Organization; election of officers; record of proceedings | § 2.03.035 | |
| | | § 6 Duties and powers | § 2.03.036 | |
| | | § 7 Meetings and quorum | § 2.03.037 | |
| | | § 8 Disqualification from voting | § 2.03.038 | |
| | | § 9 Rules of procedure | § 2.03.039 | |
| 12-17-01 (ord. 1) | 12/17/2001 | Adopts comprehensive land development plan | § 9.01.001 | |
| 12-17-01 (ord. 2) | 12/17/2001 | Zoning ordinance | See Ord. 2-14-05 for page 31 | |
| | | Art. I General | | |
| | | § 1 Authority | § 9.03.001 | |
| | | § 2 Title | § 9.03.002 | |
| | | § 3 General purpose and intent | § 9.03.003 | |
| | | § 4 Jurisdiction and intent | § 9.03.004 | |
| | | § 5 Definitions | § 9.03.005 | |
| | | § 6 Application | § 9.03.006 | |
| | | § 7 Exemptions | § 9.03.007 | |
| | | § 8 Enforcement of regulations | § 9.03.008 | |
| | | §§ 9—19 Reserved for future use | | |
| | | Art. II Zoning districts and regulations | | |
| | | § 20 General requirements and limitations | § 9.03.031 | |
| | | § 21 Establishment of zoning districts | § 9.03.032 | |
| | | § 22 Zoning of annexed areas | § 9.03.033 | |
| | | § 23 Agricultural District - District "A" | § 9.03.034 | |
| | | § 24 Reserved | | |
| | | § 25 Single Family Residential 1 - District "R-1" | § 9.03.035 | |
| | | § 25.1 Single Family Residential 1-A - District "R-1-A" | § 9.03.036 | |
| | | § 26 Single Family Residential 2 - District "R-2" | § 9.03.037 | |
| | | §§ 27—33 Reserved for future use | | |
| | | § 34 Multi-Family Residential - District "R-3" | § 9.03.038 | |
| | | § 35 Open Space - District "OS" | § 9.03.039 | |
| | | § 36 Reserved for future use | | |
| | | § 37 Manufactured Home - District "M" | § 9.03.040 | |
| | | §§ 38—40 Reserved for future use | | |

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| | | § 41 Central Area - District "CA" | § 9.03.041 | |
| | | § 42 "GUI" Institutional District | § 9.03.042 | |
| | | § 43 Commercial - District "C" | § 9.03.043 | |
| | | §§ 44—46 Reserved for future use | | |
| | | § 47 Industrial - District "I" | § 9.03.044 | |
| | | §§ 48—59 Reserved for future use | | |
| | | Art. III Site development plan requirements and special provisions | | |
| | | § 60 Construction plans | § 9.03.071 | |
| | | § 61 Landscaping and screening requirements | § 9.03.072 | |
| | | § 62 Sign requirements | § 9.03.073 | |
| | | § 63 Conditional use permits | § 9.03.074 | |
| | | § 64 Non-conforming uses | § 9.03.075 | |
| | | § 65 Sexually oriented businesses | § 9.03.076 | |
| | | §§ 66—69 Reserved for future use | | |
| | | Art. IV Administration | | |
| | | § 70 General | § 9.03.111 | |
| | | § 71 Ordinance interpretation | § 9.03.112 | |
| | | § 72 Board of adjustments | § 9.03.113 | |
| | | § 73 Conditions for issuing a building permit | § 9.03.114 | |
| | | § 74 Certificates of occupancy | § 9.03.115 | |
| | | § 75 Fees | § 9.03.116 | |
| | | § 76 Amendments | § 9.03.117 | |
| | | § 77 Violations | § 9.03.118 | |
| | | § 78 Enforcement | § 9.03.119 | |
| | | § 79 Reserved for future use | | |
| | | Art. V Closing provisions | | |
| | | § 80 Construction | § 9.03.151 | |
| | | § 81 Amendment and repeal | § 9.03.152 | |
| | | § 82 Severability | § 9.03.153 | |
| | | § 83 Effective date | § 9.03.154 | |
| | | § 84 Open meetings | § 9.03.155 | |
| | | § 85 Penalty | § 9.03.156 | |
| 12-17-01 (ord. 3) | 12/17/2001 | Adopts zoning map | § 9.01.002 | |
| 12-17-01 (ord. 4) | 12/17/2001 | Racial profiling policy | | |
| | | § 1 Findings | NIC | |
| | | § 2 Approval and adoption | § 2.05.031 | |

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| | | § 3 Orders of chief of police | § 2.05.032 | |
| | | § 4 City council approval | § 2.05.033 | |
| | | § 5 Audio and video equipment | § 2.05.034 | |
| | | § 6 Interpretation and construction | § 2.05.035 | |
| | | § 7 Governmental immunity | § 2.05.036 | |
| 07-15-02 | 12/28/ 2001 | Adopts chapter 3; building regulations | Not signed Omitted at direction of city | |
| 01-14-02 (ord. 1) | 1/14/2002 | Investment policy | | |
| | | § 1.1001 Scope | § 2.09.031 | |
| | | § 1.1002 Statement of philosophy | § 2.09.032 | |
| | | § 1.1003 Objectives | § 2.09.033 | |
| | | § 1.1004 Designation and duties of city's investment officer | § 2.09.034 | |
| | | § 1.1005 Judgment | § 2.09.035 | |
| | | § 1.1006 Diversification | § 2.09.036 | |
| | | § 1.1007 Documentation of transactions | § 2.09.037 | |
| | | § 1.1008 Investment strategies and authorized investments | § 2.09.038 | |
| | | § 1.1009 Qualified institutions | § 2.09.039 | |
| | | § 1.1010 Collateral | § 2.09.040 | |
| | | § 1.1011 Bids for certain investments | § 2.09.041 | |
| | | § 1.1012 Quarterly reports | § 2.09.042 | |
| 01-14-02 (ord. 2) | 1/14/2002 | Amends Ords. 85-O-25 and 89-O-25A [did not receive]; junked and abandoned vehicles | | |
| | | Subchapter A General provisions | | |
| | | § 172.001 State law applicable | § 8.04.001 | |
| | | § 172.002 Definitions | § 8.04.002 | |
| | | § 172.003 Enforcement | § 8.04.003 | |
| | | § 172.004 Effect on other statutes or ordinances | § 8.04.004 | |
| | | § 172.005 Storage fees | § 8.04.005 | |
| | | § 172.006 Penalties | § 8.04.006 | |
| | | Subchapter B Abandoned vehicles | | |
| | | § 172.010 Authority to take possession | § 8.04.031 | |
| | | § 172.011 Notice of impoundment of abandoned motor vehicle | § 8.04.032 | |
| | | § 172.012 Use of abandoned motor vehicles | § 8.04.033 | |

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| | | § 172.013 Auction sales; disposition of proceeds generally | § 8.04.034 | |
| | | § 172.014 Custody, reports and proceeds of abandoned motor vehicles | § 8.04.035 | |
| | | § 172.015 Disposal of abandoned motor vehicle to demolisher | § 8.04.036 | |
| | | Subchapter C Junk vehicles | | |
| | | § 172.020 Junked vehicles a public nuisance | § 8.04.061 | |
| | | § 172.021 Maintaining a public nuisance | § 8.04.062 | |
| | | § 172.022 Procedures for abatement of public nuisance | § 8.04.063 | |
| | | § 172.023 Exception to junk vehicle | § 8.04.064 | |
| | | § 172.024 Disposal of junked vehicles | § 8.04.065 | |
| 09-16-02 (ord. 2) | 9/16/2002 | Amends TXU franchise | NIC | |
| 09-16-02 (ord. 1) | 9/16/2002 | Amends Oncor franchise | NIC | |
| 2-11-03 | 2/11/2003 | City council places | § 2.02.001 | |
| 03-10-03 (ord. 1) | 3/10/2003 | Calls general election | NIC | |
| 03-10-03 (ord. 2) | 3/10/2003 | Calls special election to fill council vacancy | NIC | |
| 4-14-03 | 4/15/2003 | Cancels election; unopposed candidates | NIC | |
| 09-15-03 | 9/15/2003 | Denies TXU rate increase request | NIC | |
| 11-17-03 (ord. 1) | 11/17/2003 | Nuisances | | |
| | | Art. I Authority and definitions | | |
| | | § 1 Authority | § 8.03.001 | |
| | | § 2 Purpose | § 8.03.002 | |
| | | § 3 Findings of fact | NIC | |
| | | § 4 Definitions | § 8.03.003 | |
| | | Art. II Littering | | |
| | | § 1 Littering by pedestrians and motorists prohibited | § 8.03.031 | |
| | | § 2 Vehicles transporting loose materials | § 8.03.032 | |
| | | § 3 Loading and unloading operations | § 8.03.033 | |
| | | § 4 Responsibility to keep property clean; abatement | § 8.03.034 | |

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| | | § 5 Dumping refuse; other material | § 8.03.035 | |
| | | Art. III Repair of motor vehicles and storage of materials outdoors | | |
| | | § 1 Motor vehicle maintenance, assemblage and the like on public property | § 8.03.061 | |
| | | § 2 Motor vehicle maintenance, assemblage and the like on private property | § 8.03.062 | |
| | | § 3 Refrigerators and other containers | § 8.03.063 | |
| | | § 4 Residential solid waste containerization; removal | § 8.03.064 | |
| | | § 5 Commercial solid waste containerization; removal | § 8.03.065 | |
| | | Art. IV Nuisances and offensive conditions on private property | | |
| | | § 1 Prohibited conduct | § 8.03.091 | |
| | | § 2 Nuisance declared and duty to abate | § 8.03.092 | |
| | | § 3 Noxious odors declared nuisance | § 8.03.093 | |
| | | § 4 Storage of materials | § 8.03.094 | |
| | | § 5 Maintenance of processing premises | § 8.03.095 | |
| | | § 6 Waste transportation and disposal | § 8.03.096 | |
| | | § 7 Limitation on height of grass and weeds | § 8.03.097 | |
| | | § 8 Discharge of sewage and hazardous wastes | § 8.03.098 | |
| | | § 9 Prima facie evidence | § 8.03.099 | |
| | | Art. V General provisions | | |
| | | § 1 Right to abate dangerous conditions | § 8.03.131 | |
| | | § 2 Right to inspect | § 8.03.132 | |
| | | § 3 Violations and notices | § 8.03.133 | |
| | | § 4 Costs and appeals | § 8.03.134 | |
| | | § 5 Cost of abatement constitutes lien | § 8.03.135 | |
| | | § 6 Enforcement | § 8.03.136 | |
| | | § 7 Penalties | § 8.03.137 | |
| | | § 8 Remedies | § 8.03.138 | |
| 20040423-01 | 4/23/2004 | Amends Ord. 20040216-E5 and E-6; calling election | NIC | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
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| 04-062404-01 | 6/14/2004 | Prohibits fireworks | Amnd. by Ord. 04-062404-01B | |
| 04-062404-01B | 6/28/2004 | Amends Ord. 04-062404-01; fireworks | | |
| | | § 1 Fireworks prohibited | § 6.05.001 | |
| | | § 2 Penalty | § 6.05.002 | |
| 8-31-99C | 8/5/2004 | Water rate for school irrigation use | Amnd. by Ord. 8-31-99C-1 | |
| 8-31-99D | 8/16/2004 | Amends Ord. 8-31B (ord. 99A); wastewater rates | Amnd. by Ord. 71105 | |
| 50705ELSP | 2/14/2005 | Calls special election; councilmember | NIC | |
| 8-31-99D | 2/14/2005 | Amends Ord. 8-31-3 (ord. 99A); water and solid waste rates | Amnd. by Ord. 71105 | |
| 2-14-05 | 2/14/2005 | Amends zoning ordinance; replaces page 31; height and placement requirements | | |
| | | § 1 Authority | | |
| | | § 2 Title (replaces page 31) | § 9.03.031(i)(2), (j) | |
| 061305 | 6/13/2005 | Denies GRIP request | NIC | |
| 71105 | 7/11/2005 | Amends Ord. 8-31-3 (ord. 99A); water, sewer and solid waste rates | Amnd. by Ords. 071706-2 and 8-31-3 (ord. 99E) | |
| 92606-1W | —/—/2006 | Duties, responsibilities and authority of city administrator | Null and void per city | |
| 91606-1S | —/—/2006 | Duties, responsibilities and authority of city administrator | Null and void per city | |
| 012306 | 1/23/2006 | Amends zoning ordinance, § 64(c)(vi); nonconforming uses; existing manufactured homes | § 9.03.075(c)(7) | |
| 0123063 | 1/23/2006 | Amends budget, FY 05-06 | NIC | |
| 021306GEN | 2/13/2006 | Calls general election | NIC | |
| A52206-1 | 5/22/2006 | Amends Ord. 8-313 (ord. 99); connection to city's utilities and use of solid waste disposal services | | |
| | | § 1 Findings | NIC | |
| | | § 2 Authority | NIC | |
| | | § 3 Amends definition of connection; art. I, § 1.08 | § 12.02.003 | |
| | | § 4 Amends sections 1 and 2 of article II | | |
| | | § 1; mandatory connection to city system | § 12.02.031 | |
| | | § 2; application for water and wastewater connections | § 12.02.032 | |
| | | § 5 Amends section 3(a) of article II; certification | § 12.02.033(a) | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|----------|-----------|---|--|-----------|
| | | § 6 Amends section 3(b) of article II; service access | § 12.02.033(b) | |
| | | § 7 Amends section 2 of article VI; commercial and industrial units | § 12.02.042 | |
| 061206-1 | 6/12/2006 | Amends Ord. 99HR; duties of mayor | Superseded by Ord. 99R adopted 5/17/2010 | |
| 071706-1 | 7/17/2006 | Animal control | | |
| | | Exhibit A Animal Control Ordinance | | |
| | | Art. 1 Findings, definitions and penalties | | |
| | | § 1.01 Definitions | § 3.01.001 | |
| | | § 1.02 Penalties | § 3.01.002 | |
| | | Article 2 Prohibitions | | |
| | | § 2.01 Prohibited animals | § 3.02.001 | |
| | | § 2.02 Kennels and multi-animal ownership prohibited | § 3.02.002 | |
| | | § 2.03 Dead animals | § 3.02.003 | |
| | | Article 3 Vaccinations | | |
| | | § 3.01 Vaccination | § 3.03.001 | |
| | | § 3.02 Certificate of vaccination | § 3.03.002 | |
| | | § 3.03 Rabies tag | § 3.03.003 | |
| | | § 3.04 Enforcement | § 3.03.004 | |
| | | Article 4 Confinement of animals | | |
| | | § 4.01 Removal of animals from confinement | § 3.04.001 | |
| | | § 4.02 Animals at large | § 3.04.002 | |
| | | § 4.03 Confinement during estrus | § 3.04.003 | |
| | | § 4.04 Impoundment of animals | § 3.04.004 | |
| | | Article 5 Animal bites, care and nuisances | | |
| | | § 5.01 Reporting bites and scratches | § 3.05.001 | |
| | | § 5.02 Reporting suspected rabies | § 3.05.002 | |
| | | § 5.03 Quarantine of dogs and cats - disposition of suspected animals | § 3.05.003 | |
| | | § 5.04 Providing care | § 3.05.004 | |
| | | § 5.05 Cruel treatment | § 3.05.005 | |
| | | § 5.06 Abandonment | § 3.05.006 | |
| | | § 5.07 Inducement | § 3.05.007 | |
| | | § 5.08 Injured animal | § 3.05.008 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
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| | | § 5.09 Poisonous substances and traps | § 3.05.009 | |
| | | § 5.10 Theatrical exhibits | § 3.05.010 | |
| | | § 5.11 Creating a health hazard | § 3.05.011 | |
| | | § 5.12 Tampering with traps and equipment | § 3.05.012 | |
| | | § 5.13 Authority to destroy injured and diseased animals | § 3.05.013 | |
| | | § 5.14 Nuisance animals | § 3.05.014 | |
| | | Article 6 Dangerous, wild and exotic animals | | |
| | | § 6.01 Nonregisterable dangerous dogs | § 3.06.001 | |
| | | § 6.02 Determination of nonregisterable dangerous dog | § 3.06.002 | |
| | | § 6.03 Notification of determination of a nonregisterable dangerous dog | § 3.06.003 | |
| | | § 6.04 Status of dog pending appeal | § 3.06.004 | |
| | | § 6.05 Defense to determination | § 3.06.005 | |
| | | § 6.06 Disposition of a nonregisterable dangerous dog | § 3.06.006 | |
| | | § 6.07 Registerable dangerous dog | § 3.06.007 | |
| | | § 6.08 Determination of a registerable dangerous dog | § 3.06.008 | |
| | | § 6.09 Notification of declaration of registered dangerous dog | § 3.06.009 | |
| | | § 6.10 Status of dog on appeal | § 3.06.010 | |
| | | § 6.11 Defense to determination of registerable dangerous dog | § 3.06.011 | |
| | | § 6.12 Disposition of a registerable dangerous dog | § 3.06.012 | |
| | | § 6.13 Requirements for registration and possession of registered dangerous dog | § 3.06.013 | |
| | | § 6.14 Attack by registered dangerous dog | § 3.06.014 | |
| | | § 6.15 Penalties for violation of this article | § 3.06.015 | |
| | | § 6.16 Defense to prosecution for violation of registered dangerous dog | § 3.06.016 | |
| | | § 6.17 Appeal from municipal court | § 3.06.017 | |
| | | Article 7 Guard dogs | | |
| | | § 8.01 Guard dogs | § 3.07.001 | |
| 071706-2 | 7/17/2006 | Water rates and capital improvements fund | Amnd. by Ord. 8-31-3 (ord. 99E) | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|-------------------|------------|---|---|-----------|
| 032309-2 | 3/23/2009 | Peddlers and solicitors | | |
| | | § 1 Definitions | § 5.02.001 | |
| | | § 2 Permit required | § 5.02.002 | |
| | | § 3 Exceptions | § 5.02.003 | |
| | | § 4 Use of public places | § 5.02.004 | |
| | | § 5 Refusing to leave | § 5.02.005 | |
| | | § 6 Entrance to premises restricted | § 5.02.006 | |
| | | § 7 Hours of operation | § 5.02.007 | |
| | | § 8 Soliciting at intersections | § 5.02.008 | |
| | | § 9 Misrepresentation | § 5.02.009 | |
| | | § 10 Information required for permit | § 5.02.010 | |
| | | § 11 Application contents | § 5.02.011 | |
| | | § 12 False information | § 5.02.012 | |
| | | § 13 Photographs | § 5.02.013 | |
| | | § 14 Bond required | § 5.02.014 | |
| | | § 15 Fee | § 5.02.015 | |
| | | § 16 Issuance | § 5.02.016 | |
| | | § 17 Sales tax remittal | § 5.02.017 | |
| | | § 18 Contents | § 5.02.018 | |
| | | § 19 Display | § 5.02.019 | |
| | | § 20 Duration | § 5.02.020 | |
| | | § 21 Denial, revocation, and appeal | § 5.02.021 | |
| | | § 22 Penalties | § 5.02.022 | |
| | | § 23 Enforcement | § 5.02.023 | |
| 091409-1 | 9/14/2009 | Tax levy, TY 2009 | NIC | |
| 99HR | 5/17/2010 | Duties, responsibilities and authority of mayor; grievance procedures | | |
| | | § 1 Findings | NIC | |
| | | § 2 Mayor | § 2.02.061 | |
| | | § 3 Grievance procedures | § 2.04.002 | |
| 091310-3 | 9/13/2010 | Adopts budget, FY 10-11 | NIC | |
| 091310-2 | 9/13/2010 | Tax levy, TY 2010 | NIC | |
| 8-31-3 (ord. 99E) | 10/11/2010 | Amends water, wastewater and solid waste rates | Amnd. by Ord. 8-31-3 (ord. 99E) adopted 2/14/2011 | |
| 8-31-99C-1 | 10/11/2010 | Water rate for school irrigation use | Amnd. by Ord. 8-31-99C-1 | |
| 021411 | 2/14/2011 | Calls general election | NIC | |
| 8-31-99C-1 | 2/14/2011 | Water rate for school irrigation use | Amnd. by Ord. 9-21-21C | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|-------------------|------------|---|-------------------------------------|-----------|
| 8-31-3 (ord. 99E) | 2/14/2011 | Amends water, wastewater and solid waste rates | Amnd. by Ords. 072114 and 09-27-21C | |
| Resolution | 11/14/2011 | Taxation of personal property in transit (goods-in-transit) | § 2.10.032 | |
| 05142012 | —/—/2012 | Amends Ord. 12-17-01 (ord. 2) (zoning ordinance), § 41; allows on-site residential uses in Central Area zoning district | § 9.03.041 | |
| 071612 | 7/16/2012 | Adopts International Property Maintenance Code; substandard buildings | | |
| | | § 1 Findings | NIC | |
| | | § 2 Adoption of International Property Code and amendments | § 4.03.001 | |
| | | § 3 Chapter 214 adopted | § 4.03.002 | |
| | | § 4 Substandard building regulations adopted | | |
| | | Art. 1 Definitions | § 4.03.031 | |
| | | Art. II General regulations | | |
| | | § 2.01 Dangerous buildings declared a nuisance | § 4.03.032 | |
| | | § 2.02 Inspections and duties of the code enforcement authority | § 4.03.033 | |
| | | § 2.03 Notice of dangerous building or dangerous condition of property | § 4.03.034 | |
| | | § 2.04 Securing dangerous building | § 4.03.035 | |
| | | § 2.05 Sufficiency of notice | § 4.03.036 | |
| | | Art. III Hearing before the board of adjustments and appeals | | |
| | | § 3.01 Duties of the board of adjustments and appeals | § 4.03.037 | |
| | | Art. IV Appeal of an order of the board of adjustments and appeals | | |
| | | § 4.01 Appeal of the board of adjustments and appeals order | § 4.03.038 | |
| | | § 4.02 City council action | § 4.03.039 | |
| | | § 4.03 Judicial review | § 4.03.040 | |
| | | Art. V Assessment of expenses and penalties | | |
| | | § 5.01 Assessment of expenses and penalties | § 4.03.041 | |
| | | § 5.02 Violations | § 4.03.042 | |
| | | § 6 Penalty | § 4.03.003 | |
| | | § 7 Enforcement of regulations | § 4.03.004 | |
| 10-15-12 | 10/15/2012 | Amends Ord. 11-17-03; solid waste/trash nuisances | | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|------------|------------|--|--|-----------|
| | | § 1 Findings of fact | NIC | |
| | | § 2 Amends art. III, section 4, part (b); residential solid waste containerization and removal | § 8.03.064(b) | |
| | | § 3 Amends art. III, section 5, part (a); commercial solid waste containerization and removal | § 8.03.065(a) | |
| 091613 | 9/16/2013 | Golf carts and utility vehicles | Art. 11.04 | |
| 01132014 | 1/13/2014 | Amends Ord. 091613; golf carts and utility vehicles | | |
| | | § 1 Findings of fact | NIC | |
| | | § 2 Golf carts and utility vehicles | | |
| | | I. Definitions | § 11.04.001 | |
| | | II. Permission | § 11.04.002 | |
| | | III. Equipment requirements | § 11.04.003 | |
| | | IV. Operation regulations | § 11.04.004 | |
| | | § 3 Enforcement | § 11.04.005 | |
| 072114 | 7/21/2014 | Amends water rates | Amnd. by Ord. 11212016 | |
| | —/—/2015 | Combination tax and revenue certificates of obligation, series 2015 | NIC | |
| | —/—/2016 | Amends Ord. 8-313 (ord. 99); utilities | Null and void per city | |
| 071116 | —/—/2016 | Curfew for minors | Null and void per city | |
| | —/—/2016 | Continues curfew | Null and void per city | |
| 041116 | 4/11/2016 | Amends Ord. 12-17-01 (ord. 2) (zoning ordinance), § 25(A); adds R-1/R-2 zoning district | § 9.03.035(a)(2) | |
| 101716 | 10/17/2016 | Amends chapter 3, building code | MISSING ATTACHMENT City cannot locate | |
| | | | Omitted at direction of city | |
| 11212016 | 11/21/2016 | Amends water rates | Amnd. by Ords. 07-27-20 and 09-27-21C | |
| 02212017 | 2/21/2017 | Calls general election | NIC | |
| 06-19-2017 | 6/19/2017 | Amends Ord. 10-02 [Ord. 8-313 (ord. 99)]; utility billing and termination of services | At direction of the city, included as amending Ord. 8-313 (ord. 99). Ord. 10-02 was not adopted. | |
| | | § 1 Authority | NIC | |
| | | § 2 Purpose | NIC | |
| | | § 3 Findings of fact | NIC | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|------------|-----------|---|----------------------|-----------|
| | | § 4 Amends art. V, billing and termination of services | | |
| | | Amends § 1; billing and payment for services | § 12.02.111 | |
| | | Amends § 2; delinquency, late charges and notice | § 12.02.112 | |
| | | Amends § 3; termination of service and charges for disconnection and reconnection | § 12.02.113 | |
| | | Amends § 4; minors | § 12.02.114 | |
| | | Adds § 5; returned checks | § 12.02.115 | |
| | | § 5 Amends art. VIII, general provisions | | |
| | | Adds § 2; violations and notices | § 12.02.241 | |
| | | Adds § 3; costs and appeals | § 12.02.242 | |
| | | Adds § 4; cost of abatement constitutes lien | § 12.02.243 | |
| | | Adds § 5; enforcement | § 12.02.244 | |
| | | Adds § 6; penalty | § 12.02.245 | |
| 07-17-2017 | 7/17/2017 | Amends Ord. 11-17-03 (ord. 1); art. V, § 3, part (d); open burning | | |
| | | § 1 Findings of fact | NIC | |
| | | § 2 Amendment of 07-17-2017 | | |
| | | § ____ Restricted | § 6.04.001 | |
| | | § ____ Authorized burning | § 6.04.002 | |
| | | § ____ General requirements for any outdoor burning | § 6.04.003 | |
| | | § 3 Enforcement | § 6.04.004 | |
| | | § 4 Penalty | § 6.04.005 | |
| 4-23-18 | 4/23/2018 | Drought contingency plan | | |
| | | § I Declaration of policy, purpose, and intent | § 12.06.001 | |
| | | § II Public involvement | § 12.06.002 | |
| | | § III Public education | § 12.06.003 | |
| | | § IV Coordination with regional water planning groups | § 12.06.004 | |
| | | § V Authorization | § 12.06.005 | |
| | | § VI Application | § 12.06.006 | |
| | | § VII Definitions | § 12.06.007 | |
| | | § VIII Criteria of initiation and termination of drought response stages | § 12.06.008 | |
| | | § IX Drought response stages | § 12.06.009 | |
| | | § X Enforcement | §§ 12.06.010, A8.012 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|------------------------|--------------|--|-------------|-----------|
| | | § XI Variances | § 12.06.011 | |
| | —/—/ 2020 | Atmos franchise | NIC | |
| | —/—/ 2020 | Oncor franchise | NIC | |
| 01-20-20 | 1/20/2020 | Calls general election and sales tax election | NIC | |
| 1-20-2020 | 1/-/2020 | Noise | | |
| | | § 1.01 Definitions | § 8.02.001 | |
| | | § 1.02 Penalty; additional remedies | § 8.02.002 | |
| | | § 1.03 Defenses | § 8.02.003 | |
| | | § 1.04 General prohibitions | § 8.02.004 | |
| | | § 1.05 Noisy vehicles; idling vehicles | § 8.02.005 | |
| | | § 1.06 Amplified sound | § 8.02.006 | |
| 02032020 | 2/3/2020 | Calls election for creation of development district and sales and use tax | NIC | |
| 1-25-21 | 2/24/2020 | Amends budget, FY 19-20 | NIC | |
| 02-24-2020 | 2/24/2020 | Amends budget, FY 19-20 | NIC | |
| 03-23-2020 (ord. 2) | 3/23/2020 | Cancels general election; unopposed candidates | NIC | |
| 03-23-2020 (ord. 3) | 3/23/2020 | Postpones general election | NIC | |
| 03-2020 | 3/23/2020 | City council agendas | | |
| | | § 1 City council meetings | § 2.02.031 | |
| | | § 2 Agenda for regular city council meetings | § 2.02.032 | |
| | | § 3 Agenda for special city council meetings | § 2.02.033 | |
| | | § 4 Official address | § 2.02.034 | |
| | | § 5 Conduct of council meetings | § 2.02.035 | |
| 09-16-19 | 5/18/2020 | Amends Ord. 4-12-3 (ord. 99); subdivision ordinance | | |
| | | § 1 Findings of fact | NIC | |
| | | § 2 Adoption of definitions; adds definitions to § 1 | § 9.02.001 | |
| | | § 3 Review and approval procedures | § 9.02.031 | |
| | | § 4 Requests for extension of approval deadline or waivers of procedures | § 9.02.032 | |
| | | § 5 Conditions for issuing a building permit, issuing a site development permit, or accepting improvements | § 9.02.033 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
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| | | § 6 Notification and public hearing | § 9.02.034 | |
| | 6/22/2020 | Municipal court of record | | |
| | | Part 1 Court of record established | § 2.06.001 | |
| | | Part 2 Court facilities and seal | § 2.06.002 | |
| | | Part 3 Jurisdiction | § 2.06.003 | |
| | | Part 4 Judge's powers and duties | § 2.06.004 | |
| | | Part 5 Court clerk | § 2.06.005 | |
| | | Part 6 Record of proceedings | § 2.06.006 | |
| | | Part 7 Appeals and fees | § 2.06.007 | |
| 07-27-20 | 7/27/2020 | Monthly water rates | Amnd. by Ord. 08-23-21-A | |
| | 8/24/2020 | Capital recovery fees and tap fee | Amnd. by Ord. 09-27-21C | |
| 974 | 8/24/2020 | Subdivision and annexation fee schedule | Superseded by Ord. 09-27-21C | |
| 09-29-20 | 9/29/2020 | Building inspection fee schedule | Missing fee schedule Superseded by 09-27-21C (per city) | |
| 29-2020 | 9/29/2020 | Private sewage facilities | | |
| | | Part I Enacted | | |
| | | § I General provisions | | |
| | | A. Connection to city wastewater system required | § 12.05.001 | |
| | | B. Exception for private sewage facility | § 12.05.002 | |
| | | C. Approval by the county public health district | § 12.05.003 | |
| | | D, Definition | § 12.05.004 | |
| | | E. Minimum lot size | § 12.05.005 | |
| | | F. Existing facilities | § 12.05.006 | |
| | | § II Enforcement | § 12.05.007 | |
| 20-2020 | 9/29/2020 | Adopts budget, FY 20-21 | NIC | |
| 09-29-2020 | 9/29/2020 | Tax levy, TY 2020 | NIC | |
| 12-21-20 | 12/21/2020 | Solid waste fee for street maintenance | Amnd. by Ord. 09-27-21C | |
| 12-21-20 | 12/21/2020 | Amends zoning ordinance, § 63(b); adds manufactured homes as a conditional use | § 9.03.074(b)(12) | |
| 12-21-20 | 12/21/2020 | Grants conditional use | NIC | |
| 1-25-21 | 1/25/2021 | Calls sales tax election | NIC | |
| 1-25-21 | 1/25/2021 | Amends budget, FY 19-20 | NIC | |
| 02-20-2021 | 2/22/2021 | Hours of operation for city park | § 10.02.001 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|----------|-----------|--|--|-----------|
| 03-22-21 | 3/22/2021 | Amends Ord. 10-02 [Ord. 8-313 (ord. 99)]; water, wastewater and solid waste services | At direction of the city, included as amending Ord. 8-313 (ord. 99). Ord. 10-02 was not adopted. | |
| | | § 1 Authority | NIC | |
| | | § 2 Purpose | NIC | |
| | | § 3 Findings of fact | NIC | |
| | | § 4 Amends art. II, § 3(d); connection and repair of services | § 12.02.033(d) | |
| | | § 5 Amends art. II, water and wastewater services | | |
| | | Adds § 6; metering | § 12.02.035 | |
| | | Adds § 7; sewer connections | § 12.02.036 | |
| | | Adds § 8; maintenance of water system | § 12.02.037 | |
| | | Adds § 9; leakage responsibility | § 12.02.038 | |
| | | Adds § 10; turning water service on or off | § 12.02.039 | |
| | | Adds § 11; city right of way | § 12.02.040 | |
| | | § 6 Amends art. IV, § 1; application for services | § 12.02.071 | |
| | | § 7 Amends art. VII, waterworks system | | |
| | | Adds § 3; service pipes and mains | § 12.02.173 | |
| | | Adds § 4; boiler safety valve requirement | § 12.02.174 | |
| | | Adds § 5; regulation on laying of service pipe | § 12.02.175 | |
| | | Adds § 6; emergency shut-off valve | § 12.02.176 | |
| | | Adds § 7; fire hydrant use restricted | § 12.02.177 | |
| | | Adds § 8; defacing, breaking into or tampering with water property | § 12.02.178 | |
| | | Adds § 9; waste of water prohibited | § 12.02.179 | |
| | | Adds § 10; water usage restricted during emergencies | § 12.02.180 | |
| | | Adds § 11; temporary termination of service | § 12.02.181 | |
| | | Adds § 12; resale of water | § 12.02.182 | |
| | | Adds § 13; incorporation of this ordinance into consumer contract | § 12.02.183 | |
| | | § 8 General provisions | § 12.02.184 | |
| | | Adds art. VIII, § 1; cross-connection control program | | |
| | | (a) Definitions | § 12.02.211 | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|--------------|-----------|---|-------------------------|-----------|
| | | (b) General | § 12.02.212 | |
| | | (c) Installation, testing and maintenance of backflow prevention assemblies | § 12.02.213 | |
| | | (d) Customer service inspections | § 12.02.214 | |
| | | (e) Irrigation systems | § 12.02.215 | |
| | | (f) Fire hydrant protection | § 12.02.216 | |
| | | (g) Drilling water wells | § 12.03.001 | |
| | | (h) Construction of a windmill | § 12.04.001 | |
| 04-26-21 | 4/26/2021 | Calls general and special election | NIC | |
| 06-21-2021 | 6/21/2021 | Adopts National Electrical Code, 2020 edition | | |
| | | § 1 Enacted | § 4.02.031 | |
| | | § 2 Fees | § 4.02.032 | |
| | | § 3 Prior amendments preserved | § 4.02.033 | |
| | | § 4 Ordinances in conflict | NIC | |
| | | § 5 Enforcement of regulations | § 4.02.034 | |
| 6-21-21 | 6/21/2021 | Adopts International Fire Code, 2018 edition | | |
| | | § 1 Adoption of the International Fire Code, 2018 edition | § 6.03.001 | |
| | | § 2 Fees | § 6.03.002 | |
| | | § 3 Prior amendments preserved | § 6.03.003 | |
| | | § 4 Ordinances in conflict | NIC | |
| | | § 5 Enforcement of regulations | § 6.03.004 | |
| 07-26-2021-1 | 7/26/2021 | Amends Ord. 06-19-2017; utility billing | | |
| | | Part I Enacted; amends art. V; billing and termination of services | | |
| | | Amends § 1; billing and payment for services | § 12.02.111 | |
| | | Amends § 2; delinquency, late charges and notice | § 12.02.112 | |
| | | Amends § 3; termination of service and charges for disconnection and reconnection | § 12.02.113 | |
| 07-26-2021 | 7/26/2021 | Amends budget, FY 20-21 | NIC | |
| 08-23-21-A | 8/23/2021 | Water rates | Amnd. by Ord. 09-27-21C | |
| 09-26-21A | 9/27/2021 | Adopts budget, FY 21-22 | NIC | |
| 09-26-21B | 9/27/2021 | Tax levy | NIC | |
| 09-27-21C | 9/27/2021 | Fee schedule | | |
| | | Part I Enacted | § A1.001 | |
| | | Part 2 Findings of fact | NIC | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|----------|------|--|-------------|-----------|
| | | Part 3 Repeal and replacement of existing fees | § A1.002 | |
| | | Part 4 Future amendments to the adopted fee schedule | § A1.003 | |
| | | Part 5 Resolution of conflicting ordinances | § A1.004 | |
| | | Part 6 Savings clause | NIC | |
| | | Part 7 Effective date | § A1.005 | |
| | | Part 8 Severability | NIC | |
| | | Part 9 Open meetings | NIC | |
| | | Exhibit A City of Holland Master Fee Schedule | | |
| | | General fees | Art. A2.000 | |
| | | Animal control | Art. A3.000 | |
| | | Municipal court fees | Art. A4.000 | |
| | | New construction permit fees | § A5.001 | |
| | | Remodel permit fees | § A5.002 | |
| | | Modular home permit fees | § A5.003 | |
| | | Moving permit fees | § A5.004 | |
| | | Swimming pool permit fees | § A5.005 | |
| | | New & existing residential construction inspection fees | § A5.006 | |
| | | Manufactured housing placement inspection fees | § A5.007 | |
| | | Re-model of existing dwelling inspection fees | § A5.008 | |
| | | Modular home / mobile home inspection fees (conveyance) | § A5.009 | |
| | | Misc. inspection fees | § A5.010 | |
| | | Commercial inspection fees | § A5.011 | |
| | | Conditional use / special use permit fees | § A5.012 | |
| | | Sexually oriented business license application & permit fees | § A5.013 | |
| | | Driveway permit fee | § A5.014 | |
| | | Street & right-of-way permit fees | § A5.015 | |
| | | Sign license fee | § A5.016 | |
| | | Sign permits | § A5.017 | |
| | | Zoning changes | § A5.018 | |
| | | Subdivision plan review | § A5.019 | |
| | | Abandoned & junk vehicle fees | § A6.001 | |
| | | Peddler and solicitor permit fees | § A7.001 | |
| | | Utility fees | | |

| Ord. No. | Date | Description | Disposition | Supp. No. |
|----------|------|--|-------------|-----------|
| | | Water and wastewater (sewer) utility service security deposit | § A8.001 | |
| | | Tap fees - Water and wastewater (sewer) | § A8.002 | |
| | | Line extension and street cutting fees | § A8.003 | |
| | | Private water well permit fees | § A8.004 | |
| | | Capital recovery fees | § A8.005 | |
| | | City street maintenance and repair utility fee | § A8.006 | |
| | | Rates for water service | § A8.007 | |
| | | Rates for wastewater (sewer) service | § A8.008 | |
| | | Meter test fee | § A8.009 | |
| | | Rates for solid waste (trash) services | § A8.010 | |
| | | Waterworks system damage fees | § A8.011 | |
| | | Drought contingency fees | § A8.012 | |
| | | Utility account late charge fee | § A8.013 | |
| | | Utility account termination of services and charges for disconnection and reconnection | § A8.014 | |
| | | Utility payment returned check fee | § A8.015 | |
| | | Parks & recreation | | |
| | | Kuhlmann Civic Center fees | § A9.001 | |

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